

AMENDED IN ASSEMBLY APRIL 21, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 339

Introduced by Assembly Member Aghazarian

February 11, 2003

~~An act to amend Sections 50199.50 and 50199.54 of the Health and Safety Code, and to amend Sections 17053.14 and 23608.2 of the Revenue and Taxation Code, relating to farmworker housing. An act to amend Sections 50199.50, 50199.52, and 50199.54 of the Health and Safety Code, and to amend Sections 12206, 17058, and 23610.5 of, and to repeal Sections 17053.14, 23608.2, and 23608.3 of, the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 339, as amended, Aghazarian. Farmworker housing tax credits.

Existing insurance tax law, the Personal Income Tax Law, and the Bank and Corporation Tax Law allow, in modified conformity to federal income tax laws, taxpayers a credit against the taxes imposed by those laws for providing low-income housing, and require the California Tax Credit Allocation Committee to allocate the credit in accordance with specified criteria.

The Personal Income Tax Law and the Bank and Corporation Tax Law also allow a credit against the taxes imposed by those laws in an amount equal to 50% of the eligible costs of constructing or rehabilitating farmworker housing. The credit is allocated pursuant to the Farmworker Housing Assistance Program by the California Tax

Credit Allocation Committee in an amount not to exceed \$70,000,000 per calendar year.

This bill would revise and recast the credit for farmworker housing under the provisions providing for the credit for low-income housing, thereby, among other things, allowing a credit for the entire amount of eligible costs for constructing or rehabilitating farmworker housing. However, the \$70,000,000 aggregate limitation would continue to apply.

This bill would take effect immediately as a tax levy.

~~Existing law, known as the Farmworker Housing Assistance Program, authorizes the granting of farmworker housing tax credits by the California Tax Credit Allocation Committee for the construction of farmworker housing that is used for that purpose for a compliance period of at least 30 years pursuant to an agreement with the owner or recipient of the credits.~~

~~This bill would decrease that compliance period to 10 years, and define “owner” and “recipient” to mean any person deemed eligible for tax credits by the committee. The bill would also revise the Personal Income Tax Law and the Bank and Corporation Tax Law accordingly.~~

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 ~~SECTION 1. — Section 50199.50 of the Health and Safety Code~~
- 2 *SECTION 1. Section 50199.50 of the Health and Safety Code*
- 3 *is amended to read:*
- 4 50199.50. For the purposes of this chapter:
- 5 (a) “Agricultural worker” or “farmworker” shall have the
- 6 same meaning as specified in subdivision (b) of Section 1140.4 of
- 7 the Labor Code.
- 8 (b) “Compliance period” means, with respect to any
- 9 farmworker housing, the period of 30 consecutive taxable or
- 10 income years, beginning with the taxable or income year in which
- 11 the credit is allowable.
- 12 (c) “Eligible costs” means the total finance costs, construction
- 13 costs, excavation costs, installation costs, and permit costs paid or
- 14 incurred to construct or rehabilitate farmworker housing.
- 15 “Eligible costs” include, but are not limited to, improvements to
- 16 ensure compliance with laws governing access for persons with

1 disabilities and costs related to reducing utility expenses.
2 Noneligible costs include land and those costs financed by grants
3 and below-market financing.

4 (d) “Farmworker housing” means housing for agricultural
5 workers and may include, but need not be limited to,
6 conventionally constructed units and manufactured housing.

7 (e) “Farmworker housing tax credits” means the tax credits
8 authorized by Sections ~~17053.14, 23608.2, 12206, 17058, and~~
9 ~~23608.3~~ 23610.5 of the Revenue and Taxation Code.

10 (f) “Household” has the same meaning as defined in Section
11 7602 of Title 25 of the California Code of Regulations.

12 (g) “Committee” means the California Tax Credit Allocation
13 Committee as defined in Section 50199.7.

14 *SEC. 2. Section 50199.52 of the Health and Safety Code is*
15 *amended to read:*

16 50199.52. All housing assisted pursuant to this chapter shall
17 comply with the following requirements:

18 (a) (1) The recipient of a tax credit pursuant to Section
19 ~~17053.14, 23608.2, or 23608.3~~ 12206, 17058, or 23610.5 of the
20 Revenue and Taxation Code, or the owner of the farmworker
21 housing assisted pursuant to Section ~~17053.14~~ 12206, 17058, or
22 ~~23608.2~~ 23610.5 of the Revenue and Taxation Code, shall enter
23 into those agreements required by the committee to further the
24 purposes of this chapter and the applicable farmworker housing
25 tax credit sections.

26 (2) The owner shall agree that the farmworker housing units
27 assisted with the farmworker housing tax credits shall be utilized,
28 maintained, and operated pursuant to this chapter for the
29 compliance term specified by the applicable farmworker housing
30 tax credit statute.

31 (b) (1) The farmworker housing assisted pursuant to this
32 chapter shall be available to, and occupied by, only farmworkers
33 and their households. However, in the event of a natural disaster
34 or other critical occurrence, as determined by the committee, the
35 housing may be utilized at the discretion of the owner for
36 households needing shelter for up to 60 days if there are no
37 farmworkers who have submitted an application to reside, or to
38 continue to reside, in the housing. The occupants of the housing
39 need not be limited to farmworkers employed by the property
40 owner.

(2) In addition, where the housing is designed and operated as a dormitory, the owner and operator may restrict occupancy by sex. However, in awarding credits pursuant to this chapter, the committee shall give preference to proposed farmworker housing that is designed and operated for families rather than for single sex dormitories.

(c) The expenditures upon which the amount of the farmworker housing tax credit is based shall be eligible costs.

SEC. 3. Section 50199.54 of the Health and Safety Code is amended to read:

50199.54. (a) In the event that the owner who receives a credit pursuant to Section ~~17053.14~~ 12206, 17058, or ~~23608.2~~ 23610.5 of the Revenue and Taxation Code demonstrates, to the committee's satisfaction, that there is no further need for farmworker housing or that it is no longer economically feasible to operate the farmworker housing, the owner shall pay to the Franchise Tax Board a pro rata portion of the credit previously allowed equal to the amount of any tax credit previously allowed, multiplied by the ratio of the number of years not elapsed in the compliance period divided by 30.

(b) In the event that the farmworker housing is damaged or destroyed by a casualty not caused by the owner, the compliance period has not expired, and the owner commences reasonable action to repair or replace the farmworker housing, the taxpayer may continue to claim the credit as if no destruction had taken place.

SEC. 4. Section 12206 of the Revenue and Taxation Code is amended to read:

12206. (a) (1) There shall be allowed as a credit against the "tax" (as defined by Section 12201) a state low-income housing tax credit in an amount equal to the amount determined in subdivision (c), computed in accordance with Section 42 of the Internal Revenue Code, except as otherwise provided in this section.

(2) "Taxpayer," for purposes of this section, means the sole owner in the case of a C corporation, the partners in the case of a partnership, and the shareholders in the case of an S corporation.

(3) "Housing sponsor," for purposes of this section, means the sole owner in the case of a C corporation, the partnership in the

1 case of a partnership, and the S corporation in the case of an S
2 corporation.

3 (b) (1) The amount of the credit allocated to any housing
4 sponsor shall be authorized by the California Tax Credit
5 Allocation Committee, or any successor thereof, based on a
6 project's need for the credit for economic feasibility in accordance
7 with the requirements of this section.

8 (A) The low-income housing project shall be located in
9 California and shall meet either of the following requirements:

10 (i) The project's housing sponsor shall have been allocated by
11 the California Tax Credit Allocation Committee a credit for
12 federal income tax purposes under Section 42 of the Internal
13 Revenue Code.

14 (ii) It shall qualify for a credit under Section 42(h)(4)(B) of the
15 Internal Revenue Code.

16 (B) The California Tax Credit Allocation Committee ~~shall~~ may
17 not require fees for the credit under this section in addition to those
18 fees required for applications for the tax credit pursuant to Section
19 42 of the Internal Revenue Code. The committee may require a fee
20 if the application for the credit under this section is submitted in
21 a calendar year after the year the application is submitted for the
22 federal tax credit.

23 (2) (A) The California Tax Credit Allocation Committee shall
24 certify to the housing sponsor the amount of tax credit under this
25 section allocated to the housing sponsor for each credit period.

26 (B) In the case of a partnership or an S corporation, the housing
27 sponsor shall provide a copy of the California Tax Credit
28 Allocation Committee certification to the taxpayer.

29 (C) The taxpayer shall attach a copy of the certification to any
30 return upon which a tax credit is claimed under this section.

31 (D) In the case of a failure to attach a copy of the certification
32 for the year to the return in which a tax credit is claimed under this
33 section, no credit under this section shall be allowed for that year
34 until a copy of that certification is provided.

35 (E) All elections made by the taxpayer pursuant to Section 42
36 of the Internal Revenue Code shall apply to this section.

37 (F) No credit shall be allocated under this section to buildings
38 located in a difficult development area or a qualified census tract
39 as defined in Section 42 of the Internal Revenue Code for which
40 the eligible basis of a new building or the rehabilitation

1 expenditure of an existing building is 130 percent of that amount
2 pursuant to Section 42(d)(5)(C) of the Internal Revenue Code,
3 unless the committee reduces the amount of federal credit, with the
4 approval of the applicant, so that the combined amount of federal
5 and state credit ~~shall~~ *does* not exceed the total credit allowable
6 pursuant to this section and Section 42(b) of the Internal Revenue
7 Code, computed without regard to Section 42(d)(5)(C) of the
8 Internal Revenue Code.

9 (c) Section 42(b) of the Internal Revenue Code shall be
10 modified as follows:

11 (1) In the case of any qualified low-income building that
12 receives an allocation after 1989 and is a new building not
13 federally subsidized, the term “applicable percentage” means the
14 following:

15 (A) For each of the first three years, the percentage prescribed
16 by the Secretary of the Treasury for new buildings that are not
17 federally subsidized for the taxable year, determined in
18 accordance with the requirements of Section 42(b)(2) of the
19 Internal Revenue Code, in lieu of the percentage prescribed in
20 Section 42(b)(1)(A) of the Internal Revenue Code.

21 (B) For the fourth year, the difference between 30 percent and
22 the sum of the applicable percentages for the first three years.

23 (2) In the case of any qualified low-income building that
24 receives an allocation after 1989 and that is a new building that is
25 federally subsidized or that is an existing building that is “at risk
26 of conversion,” the term “applicable percentage” means the
27 following:

28 (A) For each of the first three years, the percentage prescribed
29 by the Secretary of the Treasury for new buildings that are
30 federally subsidized for the taxable year.

31 (B) For the fourth year, the difference between 13 percent and
32 the sum of the applicable percentages for the first three years.

33 (3) For purposes of this section, the term “at risk of
34 conversion,” with respect to an existing building means a building
35 that satisfies all of the following criteria:

36 (A) The building is presently owned by a housing sponsor other
37 than a qualified nonprofit organization.

38 (B) The building is a federally assisted building for which the
39 low-income use restrictions will terminate or the mortgage on the
40 building is eligible for incentives under Subtitle 13 of the

Emergency Low Income Housing Assistance Act of 1987 or under Section 502(c) of the Housing Act of 1949, anytime in the two calendar years after the year of application to the California Tax Credit Allocation Committee, and the purchaser has received preliminary approval from the applicable federal agency for a maximum level of incentives through a plan of action.

(C) The person acquiring the building enters into a regulatory agreement that requires the building to be operated in accordance with the requirements of this section for a period equal to the greater of 55 years or the life of the building.

(D) The building satisfies the requirements of Section 42(e) of the Internal Revenue Code regarding rehabilitation expenditures, except that the provisions of Section 42(e)(3)(A)(ii)(I) ~~shall~~ *does* not apply.

(d) The term “qualified low-income housing project” as defined in Section 42(c)(2) of the Internal Revenue Code is modified by adding the following requirements:

(1) The taxpayer shall be entitled to receive a cash distribution from the operations of the project, after funding required reserves, which, at the election of the taxpayer, is equal to:

(A) An amount not to exceed 8 percent of the lesser of:

(i) The owner equity which shall include the amount of the capital contributions actually paid to the housing sponsor and ~~shall~~ *may* not include any amounts until they are paid on an investor note.

(ii) Twenty percent of the adjusted basis of the building as of the close of the first taxable year of the credit period.

(B) The amount of the cash-flow from those units in the building that are not low-income units. For purposes of computing cash-flow under this subparagraph, operating costs shall be allocated to the low-income units using the “floor space fraction,” as defined in Section 42 of the Internal Revenue Code.

(C) Any amount allowed to be distributed under subparagraph (A) that is not available for distribution during the first five years of the compliance period may accumulate and be distributed any time during the first 15 years of the compliance period but not thereafter.

(2) The limitation on return shall apply in the aggregate to the partners if the housing sponsor is a partnership and in the aggregate to the shareholders if the housing sponsor is an S corporation.

(3) The housing sponsor shall apply any cash available for distribution in excess of the amount eligible to be distributed under paragraph (1) to reduce the rent on rent-restricted units or to increase the number of rent-restricted units subject to the tests of Section 42(g)(1) of the Internal Revenue Code.

(e) The provisions of Section 42(f) of the Internal Revenue Code shall be modified as follows:

(1) The term “credit period” as defined in Section 42(f)(1) of the Internal Revenue Code is modified by substituting “four taxable years” for “10 taxable years.”

(2) The special rule for the first taxable year of the credit period under Section 42(f)(2) of the Internal Revenue Code ~~shall~~ *does* not apply to the tax credit under this section.

(3) Section 42(f)(3) of the Internal Revenue Code is modified to read:

If, as of the close of any taxable year in the compliance period, after the first year of the credit period, the qualified basis of any building exceeds the qualified basis of that building as of the close of the first year of the credit period, the housing sponsor, to the extent of its tax credit allocation, shall be eligible for a credit on the excess in an amount equal to the applicable percentage determined pursuant to subdivision (c) for the four-year period beginning with the later of the taxable years in which the increase in qualified basis occurs.

(f) The provisions of Section 42(h) of the Internal Revenue Code shall be modified as follows:

(1) Section 42(h)(2) of the Internal Revenue Code ~~shall~~ *is* not ~~be~~ applicable and instead the following provisions shall be applicable:

The total amount for the four-year credit period of the housing credit dollars allocated in a calendar year to any building shall reduce the aggregate housing credit dollar amount of the California Tax Credit Allocation Committee for the calendar year in which the allocation is made.

(2) Paragraphs (3), (4), (5), (6)(E)(i)(II), (6)(F), (6)(G), (6)(I), (7), and (8) of Section 42(h) of the Internal Revenue Code ~~shall~~ *are* not ~~be~~ applicable.

(g) The aggregate housing credit dollar amount that may be allocated annually by the California Tax Credit Allocation

1 Committee pursuant to this section, Section 17058, and Section
2 23610.5 shall be an amount equal to the sum of all the following:
3 ~~(1) Seventy, but not to exceed seventy~~ million dollars
4 (\$70,000,000) for the 2001 calendar year, and, for the 2002
5 calendar year and each calendar year thereafter, seventy million
6 dollars (\$70,000,000) increased by the percentage, if any, by
7 which the Consumer Price Index for the preceding calendar year
8 exceeds the Consumer Price Index for the 2001 calendar year. ~~For~~
9 ~~(for the purposes of this paragraph, the term “Consumer Price~~
10 ~~Index” means the last Consumer Price Index for all urban~~
11 ~~consumers published by the federal Department of Labor.~~
12 ~~(2) Labor):~~
13 *(1) To be allocated for qualified low-income housing projects,*
14 *including farmworker housing:*
15 *(A) Forty-five million dollars (\$45,000,000).*
16 *(B) The unused housing credit ceiling, if any, for the preceding*
17 *calendar years.*
18 ~~(3)–~~
19 *(C) The amount of housing credit ceiling returned in the*
20 *calendar year. For purposes of this paragraph subparagraph, the*
21 *amount of housing credit dollar amount returned in the calendar*
22 *year equals the housing credit dollar amount previously allocated*
23 *to any project that does not become a qualified low-income*
24 *housing project within the period required by this section or to any*
25 *project with respect to which an allocation is canceled by mutual*
26 *consent of the California Tax Credit Allocation Committee and the*
27 *allocation recipient.*
28 *(2) To be specifically designated for the construction or*
29 *rehabilitation of qualified farmworker housing, all of the*
30 *following:*
31 *(A) Five hundred thousand dollars (\$500,000).*
32 *(B) The unused qualified farmworker housing credits, if any,*
33 *for the preceding calendar year or years.*
34 *(C) The amount of qualified farmworker housing credit ceiling*
35 *returned in the calendar year. For purposes of this subparagraph,*
36 *the amount returned in the calendar year equals the housing credit*
37 *dollar amount previously allocated to any project that does not*
38 *become a qualified low-income farmworker housing project*
39 *within the period required by this section or to any project with*
40 *respect to which an allocation is canceled by mutual consent of the*

1 *California Tax Credit Allocation Committee and the allocation*
2 *recipient.*

3 *“Qualified farmworker housing” means housing located within*
4 *this state that satisfies the requirements of the Farmworker*
5 *Housing Assistance Program. The housing may be vacant or*
6 *occupied, and it need not be licensed pursuant to the Employee*
7 *Housing Act at the time of the initiation of construction or*
8 *rehabilitation.*

9 *The farmworker housing tax credit may not be allowed unless*
10 *the taxpayer constructs or rehabilitates the property subject to the*
11 *covenants, conditions, and restrictions imposed by this section and*
12 *pursuant to the Farmworker Housing Assistance Program, which*
13 *shall include, but not necessarily be limited to, a requirement that*
14 *the taxpayer obtain, for approval by the committee, a construction*
15 *cost audit and certification of eligible costs from a qualified*
16 *accountant; and, subsequent to the construction or rehabilitation*
17 *of the farmworker housing, owns or operates the farmworker*
18 *housing pursuant to the requirements of this section, or ensures the*
19 *ownership and operation of the farmworker housing pursuant to*
20 *the requirements of this section.*

21 (h) The term “compliance period” as defined in Section
22 42(i)(1) of the Internal Revenue Code is modified to mean, with
23 respect to any building, the period of 30-consecutive taxable years
24 beginning with the first taxable year of the credit period with
25 respect thereto.

26 (i) (1) Section 42(j) of the Internal Revenue Code ~~shall not be~~
27 *is not* applicable and the provisions in paragraph (2) shall be
28 substituted in its place.

29 (2) The requirements of this section shall be set forth in a
30 regulatory agreement between the California Tax Credit
31 Allocation Committee and the housing sponsor, which agreement
32 shall be subordinated, when required, to any lien or encumbrance
33 of any banks or other institutional lenders to the project. The
34 regulatory agreement entered into pursuant to subdivision (f) of
35 Section 50199.14 of the Health and Safety Code, shall apply,
36 providing the agreement includes all of the following provisions:

37 (A) A term not less than the compliance period.

38 (B) A requirement that the agreement be filed in the official
39 records of the county in which the qualified low-income housing
40 project is located.

1 (C) A provision stating which state and local agencies can
2 enforce the regulatory agreement in the event the housing sponsor
3 fails to satisfy any of the requirements of this section.

4 (D) A provision that the regulatory agreement shall be deemed
5 a contract enforceable by tenants as third-party beneficiaries
6 thereto and ~~which~~ *that* allows individuals, whether prospective,
7 present, or former occupants of the building, who meet the income
8 limitation applicable to the building, the right to enforce the
9 regulatory agreement in any state court.

10 (E) A provision incorporating the requirements of Section 42
11 of the Internal Revenue Code as modified by this section.

12 (F) A requirement that the housing sponsor notify the
13 California Tax Credit Allocation Committee or its designee and
14 the local agency that can enforce the regulatory agreement if there
15 is a determination by the Internal Revenue Service that the project
16 is not in compliance with Section 42(g) of the Internal Revenue
17 Code.

18 (G) A requirement that the housing sponsor, as security for the
19 performance of the housing sponsor's obligations under the
20 regulatory agreement, assign the housing sponsor's interest in
21 rents that it receives from the project, provided that until there is
22 a default under the regulatory agreement, the housing sponsor is
23 entitled to collect and retain the rents.

24 (H) The remedies available in the event of a default under the
25 regulatory agreement that is not cured within a reasonable cure
26 period, include, but are not limited to, allowing any of the parties
27 designated to enforce the regulatory agreement to collect all rents
28 with respect to the project; taking possession of the project and
29 operating the project in accordance with the regulatory agreement
30 until the enforcer determines the housing sponsor is in a position
31 to operate the project in accordance with the regulatory agreement;
32 applying to any court for specific performance; securing the
33 appointment of a receiver to operate the project; or any other relief
34 as may be appropriate.

35 (j) (1) The committee shall allocate the housing credit on a
36 regular basis consisting of two or more periods in each calendar
37 year during which applications may be filed and considered. The
38 committee shall establish application filing deadlines, the
39 maximum percentage of federal and state low-income housing tax
40 credit ceiling ~~which~~ *that* may be allocated by the committee in that

1 period, and the approximate date on which allocations shall be
2 made. If the enactment of federal or state law, the adoption of rules
3 or regulations, or other similar events prevent the use of two
4 allocation periods, the committee may reduce the number of
5 periods and adjust the filing deadlines, maximum percentage of
6 credit allocated, and the allocation dates.

7 (2) The committee shall adopt a qualified allocation plan, as
8 provided in Section 42(m)(1) of the Internal Revenue Code. In
9 adopting this plan, the committee shall comply with the provisions
10 of Sections 42(m)(1)(B) and 42(m)(1)(C) of the Internal Revenue
11 Code.

12 (3) Notwithstanding Section 42(m) of the Internal Revenue
13 Code, the California Tax Credit Allocation Committee shall
14 allocate housing credits in accordance with the qualified allocation
15 plan and regulations, which shall include the following provisions:

16 (A) All housing sponsors, as defined by paragraph (3) of
17 subdivision (a), shall demonstrate at the time the application is
18 filed with the committee that the project meets the following
19 threshold requirements:

20 (i) The housing sponsor shall demonstrate there is a need and
21 demand for low-income housing in the community or region for
22 which it is proposed.

23 (ii) The project's proposed financing, including tax credit
24 proceeds, shall be sufficient to complete the project and that the
25 proposed operating income shall be adequate to operate the project
26 for the extended use period.

27 (iii) The project shall have enforceable financing
28 commitments, either construction or permanent financing, for at
29 least 50 percent of the total estimated financing of the project.

30 (iv) The housing sponsor shall have and maintain control of the
31 site for the project.

32 (v) The housing sponsor shall demonstrate that the project
33 complies with all applicable local land use and zoning ordinances.

34 (vi) The housing sponsor shall demonstrate that the project
35 development team has the experience and the financial capacity to
36 ensure project completion and operation for the extended use
37 period.

38 (vii) The housing sponsor shall demonstrate the amount of tax
39 credit that is necessary for the financial feasibility of the project
40 and its viability as a qualified low-income housing project

1 throughout the extended use period, taking into account operating
2 expenses, a supportable debt service, reserves, funds set aside for
3 rental subsidies, and required equity, and a development fee that
4 does not exceed a specified percentage of the eligible basis of the
5 project prior to inclusion of the development fee in the eligible
6 basis, as determined by the committee.

7 (B) The committee shall give a preference to those projects
8 satisfying all of the threshold requirements of subparagraph (A) if
9 both of the following apply:

10 (i) The project serves the lowest income tenants at rents
11 affordable to those tenants.

12 (ii) The project is obligated to serve qualified tenants for the
13 longest period.

14 (C) In addition to the provisions of subparagraphs (A) and (B),
15 the committee shall use the following criteria in allocating housing
16 credits:

17 (i) Projects serving large families in which a substantial
18 number, as defined by the committee, of all residential units is
19 comprised of low-income units with three and more bedrooms.

20 (ii) Projects providing single room occupancy units serving
21 very low income tenants.

22 (iii) Existing projects that are “at risk of conversion,” as
23 defined by paragraph (4) of subdivision (c).

24 (iv) Projects for which a public agency provides direct or
25 indirect long-term financial support for at least 15 percent of the
26 total project development costs or projects for which the owner’s
27 equity constitutes at least 30 percent of the total project
28 development costs.

29 (v) Projects that provide tenant amenities not generally
30 available to residents of low-income housing projects.

31 (4) For purposes of allocating credits pursuant to this section,
32 the committee ~~shall~~ *may* not give preference to any project by
33 virtue of the date of submission of its application except to break
34 a tie when two or more of the projects have an equal rating.

35 (k) Section 42(l) of the Internal Revenue Code shall be
36 modified as follows:

37 The term “secretary” shall be replaced by the term “California
38 Franchise Tax Board.”

39 (l) In the case where the state credit allowed under this section
40 exceeds the “tax,” the excess may be carried over to reduce the

1 “tax” in the following year, and succeeding years if necessary,
2 until the credit has been exhausted.

3 (m) The provisions of Section 11407(a) of Public Law
4 101-508, relating to the effective date of the extension of the
5 low-income housing credit, shall apply to calendar years after
6 1993.

7 (n) The provisions of Section 11407(c) of Public Law 101-508,
8 relating to election to accelerate credit, shall not apply.

9 (o) This section shall remain in effect for as long as Section 42
10 of the Internal Revenue Code, relating to low-income housing
11 credits, remains in effect.

12 *SEC. 5. Section 17053.14 of the Revenue and Taxation Code*
13 *is repealed.*

14 ~~17053.14. (a) For taxable years beginning on or after January~~
15 ~~1, 1997, there shall be allowed as a credit against the “net tax,” as~~
16 ~~defined in Section 17039, an amount, subject to Section 42(h)(1)~~
17 ~~of the Internal Revenue Code, that is otherwise equal to the lesser~~
18 ~~of 50 percent of the eligible costs, as determined under subdivision~~
19 ~~(b), or the amount allocated under paragraph (2) of subdivision (e).~~

20 ~~(b) (1) For purposes of this section, the “eligible costs” shall~~
21 ~~be equal to the total finance costs, construction costs, excavation~~
22 ~~costs, installation costs, and permit costs paid or incurred to~~
23 ~~construct or rehabilitate farmworker housing. “Eligible costs”~~
24 ~~include, but are not limited to, improvements to ensure compliance~~
25 ~~with laws governing access for persons with disabilities and costs~~
26 ~~related to reducing utility expenses. Noneligible costs include land~~
27 ~~and those costs financed by grants and below-market financing.~~

28 ~~(2) For purposes of paragraph (1), construction or~~
29 ~~rehabilitation of the farmworker housing shall have commenced~~
30 ~~on or after January 1, 1997.~~

31 ~~(3) Notwithstanding any other provision of this part, eligible~~
32 ~~costs shall not include any costs paid or incurred prior to January~~
33 ~~1, 1997.~~

34 ~~(c) Notwithstanding any other provision of this part, no credit~~
35 ~~shall be allowed under this section unless the taxpayer first obtains~~
36 ~~a certification from the committee that the amounts described in~~
37 ~~subdivision (b) qualify for the credit under this section and the total~~
38 ~~amount of the credit allocated to the taxpayer pursuant to the~~
39 ~~Farmworker Housing Assistance Program.~~

40 ~~(d) The taxpayer shall do all of the following:~~

1 ~~(1) Apply to the committee for the credit certification.~~

2 ~~(2) Retain a copy of the certification.~~

3 ~~(3) Make the certification available to the Franchise Tax~~
4 ~~Board upon request.~~

5 ~~(e) The committee shall do all of the following:~~

6 ~~(1) Provide forms and instructions for applications for credit~~
7 ~~certification, as specified pursuant to the Farmworker Housing~~
8 ~~Assistance Program.~~

9 ~~(2) Accept applications and issue a certificate to the taxpayer~~
10 ~~that includes a certification as to the eligible costs described in~~
11 ~~subdivision (b) that qualify for the credit and the total amount of~~
12 ~~the credit to which the taxpayer is entitled for the taxable year.~~
13 ~~Credit in excess of the amount necessary to make the project~~
14 ~~feasible shall not be allocated. Credits shall be allocated through~~
15 ~~a minimum of one competitive funding round per year.~~

16 ~~(3) Obtain the taxpayer's taxpayer identification number, and~~
17 ~~each partner's taxpayer identification number in the case of a~~
18 ~~partnership, for tax administration purposes.~~

19 ~~(4) Provide an annual listing to the Franchise Tax Board, in the~~
20 ~~form and manner agreed upon by the Franchise Tax Board and the~~
21 ~~committee, containing the names, taxpayer identification numbers~~
22 ~~pursuant to paragraph (3), eligible costs, and total amount of credit~~
23 ~~certified to each taxpayer.~~

24 ~~(f) For purposes of this section:~~

25 ~~(1) "Compliance period" means, with respect to any~~
26 ~~farmworker housing, the period of 30 consecutive taxable years,~~
27 ~~beginning with the taxable year in which the credit is allowable.~~

28 ~~(2) "Construct or rehabilitate" includes reconstruction, but~~
29 ~~does not include any costs related to acquisition or refinancing of~~
30 ~~property or structures thereon.~~

31 ~~(3) "Farmworker Housing Assistance Program" means~~
32 ~~Chapter 3.7 (commencing with Section 50199.50) of Part 1 of~~
33 ~~Division 31 of the Health and Safety Code.~~

34 ~~(4) "Qualified farmworker housing" means housing located~~
35 ~~within this state which satisfies the requirements of the~~
36 ~~Farmworker Housing Assistance Program. The housing may be~~
37 ~~vacant or occupied.~~

38 ~~(5) "Committee" means the California Tax Credit Allocation~~
39 ~~Committee as defined in Section 50199.7 of the Health and Safety~~
40 ~~Code.~~

~~(6) “Qualified accountant” means an accountant licensed or certified in this state who is neither an employee of the taxpayer nor related to the taxpayer, within the meaning of Section 267 of the Internal Revenue Code.~~

~~(g) No deduction or other credit shall be allowed under this part or Part 11 (commencing with Section 23001) to the extent of any eligible costs, as defined in subdivision (b), that are taken into account in computing the credit allowed under this section.~~

~~(h) The farmworker housing tax credit shall not be allowed unless the taxpayer:~~

~~(1) Constructs or rehabilitates the property subject to the covenants, conditions, and restrictions imposed by this section and pursuant to the Farmworker Housing Assistance Program, which shall include, but not necessarily be limited to, a requirement that the taxpayer obtain, for approval by the committee, a construction cost audit and certification of eligible costs from a qualified accountant.~~

~~(2) Subsequent to construction or rehabilitation of the farmworker housing, owns or operates the farmworker housing pursuant to the requirements of this section, or ensures the ownership and operation of the farmworker housing pursuant to the requirements of this section.~~

~~(i) The requirements of this section shall be set forth in a written agreement between the committee and the taxpayer. The agreement shall include, but not necessarily be limited to, the requirements set forth in the Farmworker Housing Assistance Program.~~

~~(j) In the case where the credit allowed by this section exceeds the “net tax,” the excess may be carried over to reduce the “net tax” in the following year, and succeeding years if necessary, until the credit has been exhausted.~~

~~(k) (1) In the case of any disqualifying event, as defined in paragraph (2), there shall be added to the “net tax,” as defined in Section 17039, for the taxable year in which the disqualifying event occurs, the recapture amount computed under paragraph (3) and the interest amount computed under paragraph (4).~~

~~(2) For purposes of this subdivision, “disqualifying event” shall mean:~~

~~(A) The committee determines that the certification provided under subdivision (e) was obtained by fraud or misrepresentation.~~

~~(B) The taxpayer fails to comply with the requirements of the Farmworker Housing Assistance Program, or any other requirement imposed under this section.~~

~~(3) For purposes of this subdivision, "recapture amount" means:~~

~~(A) In the case of any disqualifying event described in subparagraph (A) of paragraph (2), the entire amount of any credit previously allowed under this section.~~

~~(B) In the case of any disqualifying event described in subparagraph (B) of paragraph (2), an amount determined by multiplying the entire amount of the credit previously allowed under this section by a fraction, the numerator of which is the number of years remaining in the compliance period and the denominator of which is 30.~~

~~(4) For purposes of this subdivision, "interest amount" means:~~

~~(A) In the case of any disqualifying event described in subparagraph (A) of paragraph (2), the amount of interest computed using the adjusted annual rate established in Section 19521 from the due date of the return for each taxable year in which the credit was claimed to the date of the payment of the additional tax resulting from the application of this subdivision.~~

~~(B) In the case of any disqualifying event described in subparagraph (B) of paragraph (2), zero.~~

~~(l) The annual amount of credit granted pursuant to this section and Sections 23608.2 and 23608.3 shall not exceed five hundred thousand dollars (\$500,000), provided that the aggregate amount of the credit granted pursuant to this section and Sections 23608.2 and 23608.3 for the 1998 calendar year and thereafter may exceed five hundred thousand dollars (\$500,000) per calendar year by an amount equal to any unallocated credits under this section and Sections 23608.2 and 23608.3 for the preceding calendar year or years.~~

SEC. 6. Section 17058 of the Revenue and Taxation Code is amended to read:

17058. (a) (1) There shall be allowed as a credit against the amount of net tax (as defined in Section 17039) a state low-income housing credit in an amount equal to the amount determined in subdivision (c), computed in accordance with the provisions of Section 42 of the Internal Revenue Code, except as otherwise provided in this section.

1 (2) “Taxpayer” for purposes of this section means the sole
2 owner in the case of an individual, the partners in the case of a
3 partnership, and the shareholders in the case of an S corporation.

4 (3) “Housing sponsor” for purposes of this section means the
5 sole owner in the case of an individual, the partnership in the case
6 of a partnership, and the S corporation in the case of an S
7 corporation.

8 (b) (1) The amount of the credit allocated to any housing
9 sponsor shall be authorized by the California Tax Credit
10 Allocation Committee, or any successor thereof, based on a
11 project’s need for the credit for economic feasibility in accordance
12 with the requirements of this section.

13 (A) The low-income housing project shall be located in
14 California and shall meet either of the following requirements:

15 (i) The project’s housing sponsor shall have been allocated by
16 the California Tax Credit Allocation Committee a credit for
17 federal income tax purposes under Section 42 of the Internal
18 Revenue Code.

19 (ii) It shall qualify for a credit under Section 42(h)(4)(B) of the
20 Internal Revenue Code.

21 (B) The California Tax Credit Allocation Committee ~~shall~~ *may*
22 not require fees for the credit under this section in addition to those
23 fees required for applications for the tax credit pursuant to Section
24 42 of the Internal Revenue Code. The committee may require a fee
25 if the application for the credit under this section is submitted in
26 a calendar year after the year the application is submitted for the
27 federal tax credit.

28 (2) (A) The California Tax Credit Allocation Committee shall
29 certify to the housing sponsor the amount of tax credit under this
30 section allocated to the housing sponsor for each credit period.

31 (B) In the case of a partnership or an S corporation, the housing
32 sponsor shall provide a copy of the California Tax Credit
33 Allocation Committee certification to the taxpayer.

34 (C) The taxpayer shall, upon request, provide a copy of the
35 certification to the Franchise Tax Board.

36 (D) All elections made by the taxpayer pursuant to Section 42
37 of the Internal Revenue Code shall apply to this section.

38 (E) For buildings located in designated difficult development
39 areas or qualified census tracts as defined in Section 42(d)(5)(C)
40 of the Internal Revenue Code, credits may be allocated under this

1 section in the amounts prescribed in subdivision (c), provided that
2 the amount of credit allocated under Section 42 of the Internal
3 Revenue Code is computed on 100 percent of the qualified basis
4 of the building.

5 (c) Section 42(b) of the Internal Revenue Code shall be
6 modified as follows:

7 (1) In the case of any qualified low-income building placed in
8 service by the housing sponsor during 1987, the term “applicable
9 percentage” means 9 percent for each of the first three years and
10 3 percent for the fourth year for new buildings (whether or not the
11 building is federally subsidized) and for existing buildings.

12 (2) In the case of any qualified low-income building that
13 receives an allocation after 1989 and is a new building not
14 federally subsidized, the term “applicable percentage” means the
15 following:

16 (A) For each of the first three years, the percentage prescribed
17 by the Secretary of the Treasury for new buildings that are not
18 federally subsidized for the taxable year, determined in
19 accordance with the requirements of Section 42(b)(2) of the
20 Internal Revenue Code, in lieu of the percentage prescribed in
21 Section 42(b)(1)(A) of the Internal Revenue Code.

22 (B) For the fourth year, the difference between 30 percent and
23 the sum of the applicable percentages for the first three years.

24 (3) In the case of any qualified low-income building that
25 receives an allocation after 1989 and that is a new building that is
26 federally subsidized or that is an existing building that is “at risk
27 of conversion,” the term “applicable percentage” means the
28 following:

29 (A) For each of the first three years, the percentage prescribed
30 by the Secretary of the Treasury for new buildings that are
31 federally subsidized for the taxable year.

32 (B) For the fourth year, the difference between 13 percent and
33 the sum of the applicable percentages for the first three years.

34 (4) For purposes of this section, the term “at risk of
35 conversion,” with respect to an existing building means a building
36 that satisfies all of the following criteria:

37 (A) The building is presently owned by a housing sponsor other
38 than a qualified nonprofit organization.

39 (B) The building is a federally assisted building for which the
40 low-income use restrictions will terminate or the building is

1 eligible for incentives under Subtitle 13 of the Emergency Low
2 Income Housing Preservation Act of 1987 or under Section 502(c)
3 of the Housing Act of 1949, anytime in the two calendar years after
4 the year of application to the California Tax Credit Allocation
5 Committee, and the purchaser has received preliminary approval
6 from the applicable federal agency for a maximum level of
7 incentives through a plan of action.

8 (C) The person acquiring the building enters into a regulatory
9 agreement that requires the building to be operated in accordance
10 with the requirements of this section for a period equal to the
11 greater of 55 years or the life of the building.

12 (D) The building satisfies the requirements of Section 42(e) of
13 the Internal Revenue Code regarding rehabilitation expenditures,
14 except that the provisions of Section 42(e)(3)(A)(ii)(I) ~~shall~~ do not
15 apply.

16 (d) The term “qualified low-income housing project” as
17 defined in Section 42(c)(2) of the Internal Revenue Code is
18 modified by adding the following requirements:

19 (1) The taxpayer shall be entitled to receive a cash distribution
20 from the operations of the project, after funding required reserves,
21 that, at the election of the taxpayer, is equal to:

22 (A) An amount not to exceed 8 percent of the lesser of:

23 (i) The owner equity that shall include the amount of the capital
24 contributions actually paid to the housing sponsor and ~~shall~~ may
25 not include any amounts until they are paid on an investor note.

26 (ii) Twenty percent of the adjusted basis of the building as of
27 the close of the first taxable year of the credit period.

28 (B) The amount of the cash-flow from those units in the
29 building that are not low-income units. For purposes of computing
30 cash-flow under this subparagraph, operating costs shall be
31 allocated to the low-income units using the “floor space fraction,”
32 as defined in Section 42 of the Internal Revenue Code.

33 (C) Any amount allowed to be distributed under subparagraph
34 (A) that is not available for distribution during the first five years
35 of the compliance period may be accumulated and distributed any
36 time during the first 15 years of the compliance period but not
37 thereafter.

38 (2) The limitation on return shall apply in the aggregate to the
39 partners if the housing sponsor is a partnership and in the aggregate
40 to the shareholders if the housing sponsor is an S corporation.

(3) The housing sponsor shall apply any cash available for distribution in excess of the amount eligible to be distributed under paragraph (1) to reduce the rent on rent-restricted units or to increase the number of rent-restricted units subject to the tests of Section 42(g)(1) of the Internal Revenue Code.

(e) The provisions of Section 42(f) of the Internal Revenue Code shall be modified as follows:

(1) The term “credit period” as defined in Section 42(f)(1) of the Internal Revenue Code is modified by substituting “four taxable years” for “10 taxable years.”

(2) The special rule for the first taxable year of the credit period under Section 42(f)(2) of the Internal Revenue Code ~~shall~~ *does* not apply to the tax credit under this section.

(3) Section 42(f)(3) of the Internal Revenue Code is modified to read:

If, as of the close of any taxable year in the compliance period, after the first year of the credit period, the qualified basis of any building exceeds the qualified basis of that building as of the close of the first year of the credit period, the housing sponsor, to the extent of its tax credit allocation, shall be eligible for a credit on the excess in an amount equal to the applicable percentage determined pursuant to subdivision (c) for the four-year period beginning with the taxable year in which the increase in qualified basis occurs.

(f) The provisions of Section 42(h) of the Internal Revenue Code shall be modified as follows:

(1) Section 42(h)(2) of the Internal Revenue Code ~~shall not be~~ *is* applicable and instead the following provisions shall be applicable:

The total amount for the four-year period of the housing credit dollars allocated in a calendar year to any building shall reduce the aggregate housing credit dollar amount of the California Tax Credit Allocation Committee for the calendar year in which the allocation is made.

(2) Paragraphs (3), (4), (5), (6)(E)(i)(II), (6)(F), (6)(G), (6)(I), (7), and (8) of Section 42(h) of the Internal Revenue Code ~~shall not be~~ *are not* applicable to this section.

(g) The aggregate housing credit dollar amount ~~which~~ *that* may be allocated annually by the California Tax Credit Allocation

1 Committee pursuant to this section, Section 12206, and Section
2 23610.5 shall be an amount equal to the sum of all the following:
3 ~~(1) Seventy, but not to exceed seventy~~ million dollars
4 (\$70,000,000) for the 2001 calendar year, and, for the 2002
5 calendar year and each calendar year thereafter, seventy million
6 dollars (\$70,000,000) increased by the percentage, if any, by
7 which the Consumer Price Index for the preceding calendar year
8 exceeds the Consumer Price Index for the 2001 calendar year. ~~For~~
9 ~~(for the purposes of this paragraph, the term “Consumer Price~~
10 ~~Index” means the last Consumer Price Index for all urban~~
11 ~~consumers published by the federal Department of Labor.~~

12 ~~(2) Labor):~~

13 *(1) To be allocated for qualified low-income housing projects,*
14 *including farmworker housing:*

15 *(A) Forty-five million dollars (\$45,000,000).*

16 *(B) The unused housing credit ceiling, if any, for the preceding*
17 *calendar years.*

18 ~~(3)–~~

19 *(C) The amount of housing credit ceiling returned in the*
20 *calendar year. For purposes of this paragraph subparagraph, the*
21 *amount of housing credit dollar amount returned in the calendar*
22 *year equals the housing credit dollar amount previously allocated*
23 *to any project that does not become a qualified low-income*
24 *housing project within the period required by this section or to any*
25 *project with respect to which an allocation is canceled by mutual*
26 *consent of the California Tax Credit Allocation Committee and the*
27 *allocation recipient.*

28 *(2) To be specifically designated for the construction or*
29 *rehabilitation of qualified farmworker housing, all of the*
30 *following:*

31 *(A) Five hundred thousand dollars (\$500,000).*

32 *(B) The unused qualified farmworker housing credits, if any,*
33 *for the preceding calendar year or years.*

34 *(C) The amount of qualified farmworker housing credit ceiling*
35 *returned in the calendar year. For purposes of this subparagraph,*
36 *the amount returned in the calendar year equals the housing credit*
37 *dollar amount previously allocated to any project that does not*
38 *become a qualified low-income farmworker housing project*
39 *within the period required by this section or to any project with*
40 *respect to which an allocation is canceled by mutual consent of the*

1 *California Tax Credit Allocation Committee and the allocation*
2 *recipient.*

3 *“Qualified farmworker housing” means housing located within*
4 *this state that satisfies the requirements of the Farmworker*
5 *Housing Assistance Program. The housing may be vacant or*
6 *occupied, and it need not be licensed pursuant to the Employee*
7 *Housing Act at the time of the initiation of construction or*
8 *rehabilitation.*

9 *The farmworker housing tax credit may not be allowed unless*
10 *the taxpayer constructs or rehabilitates the property subject to the*
11 *covenants, conditions, and restrictions imposed by this section and*
12 *pursuant to the Farmworker Housing Assistance Program, which*
13 *shall include, but not necessarily be limited to, a requirement that*
14 *the taxpayer obtain, for approval by the committee, a construction*
15 *cost audit and certification of eligible costs from a qualified*
16 *accountant; and, subsequent to the construction or rehabilitation*
17 *of the farmworker housing, owns or operates the farmworker*
18 *housing pursuant to the requirements of this section, or ensures the*
19 *ownership and operation of the farmworker housing pursuant to*
20 *the requirements of this section.*

21 (h) The term “compliance period” as defined in Section
22 42(i)(1) of the Internal Revenue Code is modified to mean, with
23 respect to any building, the period of 30 consecutive taxable years
24 beginning with the first taxable year of the credit period with
25 respect thereto.

26 (i) Section 42(j) of the Internal Revenue Code ~~shall not be~~ *is not*
27 *applicable and the following requirements of this section shall be*
28 *set forth in a regulatory agreement between the California Tax*
29 *Credit Allocation Committee and the housing sponsor, which*
30 *agreement shall be subordinated, when required, to any lien or*
31 *encumbrance of any banks or other institutional lenders to the*
32 *project. The regulatory agreement entered into pursuant to*
33 *subdivision (f) of Section 50199.14 of the Health and Safety Code*
34 *shall apply, providing the agreement includes all of the following*
35 *provisions:*

36 (1) A term not less than the compliance period.

37 (2) A requirement that the agreement be filed in the official
38 records of the county in which the qualified low-income housing
39 project is located.

1 (3) A provision stating which state and local agencies can
2 enforce the regulatory agreement in the event the housing sponsor
3 fails to satisfy any of the requirements of this section.

4 (4) A provision that the regulatory agreement shall be deemed
5 a contract enforceable by tenants as third-party beneficiaries
6 thereto and ~~which~~ *that* allows individuals, whether prospective,
7 present, or former occupants of the building, who meet the income
8 limitation applicable to the building, the right to enforce the
9 regulatory agreement in any state court.

10 (5) A provision incorporating the requirements of Section 42
11 of the Internal Revenue Code as modified by this section.

12 (6) A requirement that the housing sponsor notify the
13 California Tax Credit Allocation Committee or its designee if there
14 is a determination by the Internal Revenue Service that the project
15 is not in compliance with Section 42(g) of the Internal Revenue
16 Code.

17 (7) A requirement that the housing sponsor, as security for the
18 performance of the housing sponsor's obligations under the
19 regulatory agreement, assign the housing sponsor's interest in
20 rents that it receives from the project, provided that until there is
21 a default under the regulatory agreement, the housing sponsor is
22 entitled to collect and retain the rents.

23 (8) The remedies available in the event of a default under the
24 regulatory agreement that is not cured within a reasonable cure
25 period, include, but are not limited to, allowing any of the parties
26 designated to enforce the regulatory agreement to collect all rents
27 with respect to the project; taking possession of the project and
28 operating the project in accordance with the regulatory agreement
29 until the enforcer determines the housing sponsor is in a position
30 to operate the project in accordance with the regulatory agreement;
31 applying to any court for specific performance; securing the
32 appointment of a receiver to operate the project; or any other relief
33 as may be appropriate.

34 (j) (1) The committee shall allocate the housing credit on a
35 regular basis consisting of two or more periods in each calendar
36 year during which applications may be filed and considered. The
37 committee shall establish application filing deadlines, the
38 maximum percentage of federal and state low-income housing tax
39 credit ceiling that may be allocated by the committee in that
40 period, and the approximate date on which allocations shall be

1 made. If the enactment of federal or state law, the adoption of rules
2 or regulations or other similar events prevent the use of two
3 allocation periods, the committee may reduce the number of
4 periods and adjust the filing deadlines, maximum percentage of
5 credit allocated, and the allocation dates.

6 (2) The committee shall adopt a qualified allocation plan, as
7 provided in Section 42(m)(1) of the Internal Revenue Code. In
8 adopting this plan, the committee shall comply with the provisions
9 of Sections 42(m)(1)(B) and 42(m)(1)(C) of the Internal Revenue
10 Code.

11 (3) Notwithstanding Section 42(m) of the Internal Revenue
12 Code, the California Tax Credit Allocation Committee shall
13 allocate housing credits in accordance with the qualified allocation
14 plan and regulations, which shall include the following provisions:

15 (A) All housing sponsors, as defined by paragraph (3) of
16 subdivision (a), shall demonstrate at the time the application is
17 filed with the committee that the project meets the following
18 threshold requirements:

19 (i) The housing sponsor shall demonstrate there is a need and
20 demand for low-income housing in the community or region for
21 which it is proposed.

22 (ii) The project's proposed financing, including tax credit
23 proceeds, shall be sufficient to complete the project and that the
24 proposed operating income shall be adequate to operate the project
25 for the extended use period.

26 (iii) The project shall have enforceable financing
27 commitments, either construction or permanent financing, for at
28 least 50 percent of the total estimated financing of the project.

29 (iv) The housing sponsor shall have and maintain control of the
30 site for the project.

31 (v) The housing sponsor shall demonstrate that the project
32 complies with all applicable local land use and zoning ordinances.

33 (vi) The housing sponsor shall demonstrate that the project
34 development team has the experience and the financial capacity to
35 ensure project completion and operation for the extended use
36 period.

37 (vii) The housing sponsor shall demonstrate the amount of tax
38 credit that is necessary for the financial feasibility of the project
39 and its viability as a qualified low-income housing project
40 throughout the extended use period, taking into account operating

1 expenses, a supportable debt service, reserves, funds set aside for
2 rental subsidies, and required equity, and a development fee that
3 does not exceed a specified percentage of the eligible basis of the
4 project prior to inclusion of the development fee in the eligible
5 basis, as determined by the committee.

6 (B) The committee shall give a preference to those projects
7 satisfying all of the threshold requirements of subparagraph (A) if
8 both of the following apply:

9 (i) The project serves the lowest income tenants at rents
10 affordable to those tenants.

11 (ii) The project is obligated to serve qualified tenants for the
12 longest period.

13 (C) In addition to the provisions of subparagraphs (A) and (B),
14 the committee shall use the following criteria in allocating housing
15 credits:

16 (i) Projects serving large families in which a substantial
17 number, as defined by the committee of all residential units is
18 comprised of low-income units with three and more bedrooms.

19 (ii) Projects providing single room occupancy units serving
20 very low income tenants.

21 (iii) Existing projects that are “at risk of conversion,” as
22 defined by paragraph (4) of subdivision (c).

23 (iv) Projects for which a public agency provides direct or
24 indirect long-term financial support for at least 15 percent of the
25 total project development costs or projects for which the owner’s
26 equity constitutes at least 30 percent of the total project
27 development costs.

28 (v) Projects that provide tenant amenities not generally
29 available to residents of low-income housing projects.

30 (4) For purposes of allocating credits pursuant to this section,
31 the committee ~~shall~~ *may* not give preference to any project by
32 virtue of the date of submission of its application.

33 (k) Section 42(l) of the Internal Revenue Code shall be
34 modified as follows:

35 The term “secretary” shall be replaced by the term “California
36 Franchise Tax Board.”

37 (l) In the case where the credit allowed under this section
38 exceeds the net tax, the excess credit may be carried over to reduce
39 the net tax in the following year, and succeeding taxable years, if
40 necessary, until the credit has been exhausted.

(m) A project that received an allocation of a 1989 federal housing credit dollar amount shall be eligible to receive an allocation of a 1990 state housing credit dollar amount, subject to all of the following conditions:

(1) The project was not placed in service prior to 1990.

(2) To the extent the amendments made to this section by the Statutes of 1990 conflict with any provisions existing in this section prior to those amendments, the prior provisions of law shall prevail.

(3) Notwithstanding paragraph (2), a project applying for an allocation under this subdivision shall be subject to the requirements of paragraph (3) of subdivision (j).

(n) The credit period with respect to an allocation of credit in 1989 by the California Tax Credit Allocation Committee of which any amount is attributable to unallocated credit from 1987 or 1988 shall does not begin until after December 31, 1989.

(o) The provisions of Section 11407(a) of Public Law 101-508, relating to the effective date of the extension of the low-income housing credit, shall apply to calendar years after 1989.

(p) The provisions of Section 11407(c) of Public Law 101-508, relating to election to accelerate credit, shall not apply.

(q) Any unused credit may continue to be carried forward, as provided in subdivision (l), until the credit has been exhausted.

This section shall remain in effect on and after December 1, 1990, for as long as Section 42 of the Internal Revenue Code, relating pertaining to low-income housing credits, remains in effect.

(r) The amendments to this section by the act adding this subdivision shall apply only to taxable years beginning on or after January 1, 1994.

SEC. 7. Section 23608.2 of the Revenue and Taxation Code is repealed.

~~23608.2.—(a) For taxable years beginning on or after January 1, 1997, there shall be allowed as a credit against the “tax,” as defined by Section 23036, an amount, subject to Section 42(h)(1) of the Internal Revenue Code, that is otherwise equal to the lesser of 50 percent of the eligible costs, as determined under subdivision (b), or the amount allocated under paragraph (2) of subdivision (e).~~

~~(b) (1) For purposes of this section, the “eligible costs” shall be equal to the total finance costs, construction costs, excavation~~

1 costs, installation costs, and permit costs paid or incurred to
2 construct or rehabilitate farmworker housing. “Eligible costs”
3 include, but are not limited to, improvements to ensure compliance
4 with laws governing access for persons with disabilities and costs
5 related to reducing utility expenses. Noneligible costs include land
6 and those costs financed by grants and below-market financing.

7 (2) For purposes of paragraph (1), construction or
8 rehabilitation of the farmworker housing shall have commenced
9 on or after January 1, 1997.

10 (3) Notwithstanding any provision of this part, eligible costs
11 shall not include any costs paid or incurred prior to January 1,
12 1997.

13 (c) Notwithstanding any other provision of this part, no credit
14 shall be allowed under this section unless the taxpayer first obtains
15 a certification from the committee that the amounts described in
16 subdivision (b) qualify for the credit under this section and the total
17 amount of the credit allocated to the taxpayer pursuant to the
18 Farmworker Housing Assistance Program.

19 (d) The taxpayer shall do all of the following:

20 (1) Apply to the committee for credit certification.

21 (2) Retain a copy of the certification.

22 (3) Make the certification available to the Franchise Tax Board
23 upon request.

24 (e) The committee shall do all of the following:

25 (1) Provide forms and instructions for applications for credit
26 certification, as specified pursuant to the Farmworker Housing
27 Assistance Program.

28 (2) Accept applications and issue a certificate to the taxpayer
29 that includes a certification as to the eligible costs described in
30 subdivision (b) that qualify for the credit and the total amount of
31 the credit to which the taxpayer is entitled for the taxable year.
32 Credit in excess of the amount necessary to make the project
33 feasible shall not be allocated. Credits shall be allocated through
34 a minimum of one competitive funding round per year.

35 (3) Obtain the taxpayer’s taxpayer identification number, or
36 each shareholder’s taxpayer identification number in the case of an
37 S corporation, for tax administration purposes.

38 (4) Provide an annual listing to the Franchise Tax Board, in the
39 form and manner agreed upon by the Franchise Tax Board and the
40 committee, containing the names, taxpayer identification numbers

1 pursuant to paragraph (3), eligible costs, and total amount of credit
2 certified to each taxpayer.

3 (f) ~~For purposes of this section:~~

4 (1) ~~“Compliance period” means, with respect to any~~
5 ~~farmworker housing, the period of 30 consecutive taxable years,~~
6 ~~beginning with the taxable year in which the credit is allowable.~~

7 (2) ~~“Construct or rehabilitate” includes reconstruction, but~~
8 ~~does not include any costs related to acquisition or refinancing of~~
9 ~~property or structures thereon.~~

10 (3) ~~“Farmworker Housing Assistance Program” means~~
11 ~~Chapter 3.7 (commencing with Section 50199.50) of Part 1 of~~
12 ~~Division 31 of the Health and Safety Code.~~

13 (4) ~~“Qualified farmworker housing” means housing located~~
14 ~~within this state which satisfies the requirements of the~~
15 ~~Farmworker Housing Assistance Program. The housing may be~~
16 ~~vacant or occupied, and it need not be licensed pursuant to the~~
17 ~~Employee Housing Act at the time of the initiation of construction~~
18 ~~or rehabilitation.~~

19 (5) ~~“Committee” means the California Tax Credit Allocation~~
20 ~~Committee as defined in Section 50199.7 of the Health and Safety~~
21 ~~Code.~~

22 (6) ~~“Qualified accountant” means an accountant licensed or~~
23 ~~certified in this state who is neither an employee of the taxpayer,~~
24 ~~nor related to the taxpayer within the meaning of Section 267 of~~
25 ~~the Internal Revenue Code.~~

26 (g) ~~No deduction or other credit shall be allowed under this part~~
27 ~~or Part 10 (commencing with Section 17001) to the extent of any~~
28 ~~eligible costs, as defined in subdivision (b), that are taken into~~
29 ~~account in computing the credit allowed under this section.~~

30 (h) ~~The farmworker housing tax credit shall not be allowed~~
31 ~~unless the taxpayer:~~

32 (1) ~~Constructs or rehabilitates the property subject to the~~
33 ~~covenants, conditions, and restrictions imposed by this section and~~
34 ~~pursuant to the Farmworker Housing Assistance Program, which~~
35 ~~shall include, but not necessarily be limited to, a requirement that~~
36 ~~the taxpayer obtain, for approval by the committee, a construction~~
37 ~~cost audit and certification of eligible costs from a qualified~~
38 ~~accountant.~~

39 (2) ~~Subsequent to construction or rehabilitation of the~~
40 ~~farmworker housing, owns or operates the farmworker housing~~

~~pursuant to the requirements of this section, or ensures the ownership and operation of the farmworker housing pursuant to the requirements of this section.~~

~~(i) The requirements of this section shall be set forth in a written agreement between the committee and the taxpayer. The agreement shall include, but not necessarily be limited to, the requirements set forth in the Farmworker Housing Assistance Program.~~

~~(j) In the case where the credit allowed by this section exceeds the "tax," the excess may be carried over to reduce the "tax" in the following year, and succeeding years if necessary, until the credit has been exhausted.~~

~~(k) (1) In the case of any disqualifying event, as defined in paragraph (2), there shall be added to the "tax," as defined in Section 23036, for the taxable year in which the disqualifying event occurs, the recapture amount computed under paragraph (3) and the interest amount computed under paragraph (4).~~

~~(2) For purposes of this subdivision, "disqualifying event" shall mean:~~

~~(A) The committee determines that the certification provided under subdivision (e) was obtained by fraud or misrepresentation.~~

~~(B) The taxpayer fails to comply with the requirements of the Farmworker Housing Assistance Program, or any other requirement imposed under this section.~~

~~(3) For purposes of this subdivision, "recapture amount" means:~~

~~(A) In the case of any disqualifying event described in subparagraph (A) of paragraph (2), the entire amount of any credit previously allowed under this section.~~

~~(B) In the case of any disqualifying event described in subparagraph (B) of paragraph (2), an amount determined by multiplying the entire amount of the credit previously allowed under this section by a fraction, the numerator of which is the number of years remaining in the compliance period and the denominator of which is 30.~~

~~(4) For purposes of this subdivision, "interest amount" means:~~

~~(A) In the case of any disqualifying event described in subparagraph (A) of paragraph (2), the amount of interest computed using the adjusted annual rate established in Section 49521 from the due date of the return for each taxable year in~~

1 ~~which the credit was claimed to the date of payment of the~~
2 ~~additional tax resulting from the application of this subdivision.~~

3 ~~(B) In the case of any disqualifying event described in~~
4 ~~subparagraph (B) of paragraph (2), zero.~~

5 ~~(l) The annual amount of credit granted pursuant to this section~~
6 ~~and Sections 17053.14 and 23608.3 shall not exceed five hundred~~
7 ~~thousand dollars (\$500,000), provided that the aggregate amount~~
8 ~~of the credit granted pursuant to this section and Sections~~
9 ~~17053.14 and 23608.3 for the calendar year 1998 and thereafter~~
10 ~~may exceed five hundred thousand dollars (\$500,000) per~~
11 ~~calendar year by an amount equal to any unallocated credits under~~
12 ~~this section and Sections 17053.14 and 23608.3 for the preceding~~
13 ~~calendar year or years.~~

14 ~~SEC. 8. Section 23608.3 of the Revenue and Taxation Code is~~
15 ~~repealed.~~

16 ~~23608.3. (a) For taxable years beginning on or after January~~
17 ~~1, 1997, there shall be allowed as a credit against the "tax," as~~
18 ~~defined in Section 23036, for a bank or financial corporation as~~
19 ~~determined in subdivision (b).~~

20 ~~(b) (1) For purposes of this section, the credit shall be equal to~~
21 ~~50 percent of the difference between the amount of interest income~~
22 ~~which could have been collected by the bank or financial~~
23 ~~corporation had the loan rate been one point above prime, or any~~
24 ~~other index used by the lender, and the lesser amount of interest~~
25 ~~income actually due for the term of the loan by the bank or~~
26 ~~financial corporation on those portions of loans used to finance~~
27 ~~only eligible costs actually paid or incurred to rehabilitate or~~
28 ~~construct qualified farmworker housing.~~

29 ~~(2) The credit allowed under this section shall be taken in equal~~
30 ~~installments over a period equal to the lesser of 10 years or the term~~
31 ~~of the loan beginning in the taxpayer's taxable year during which~~
32 ~~the qualified farmworker housing is completed and there is initial~~
33 ~~occupancy by eligible farmworkers. In the case where the credit~~
34 ~~allowed by this section exceeds the "tax" for any taxable year, the~~
35 ~~excess may not be carried over to reduce the "tax" in any~~
36 ~~succeeding year.~~

37 ~~(3) The credit shall not apply to loans with a term of less than~~
38 ~~three years or to loans funded prior to January 1, 1997. The credit~~
39 ~~shall apply only to interest income from the loan and shall not~~

1 ~~apply to any other loan fees or other charges collected by the bank~~
2 ~~or financial corporation with respect to the loan.~~
3 ~~(e) The taxpayer shall qualify for the credit by application to~~
4 ~~and certification by the committee that the expenses qualify for the~~
5 ~~credit under this section.~~
6 ~~(d) The taxpayer shall do all of the following:~~
7 ~~(1) Apply to the committee for credit certification prior to the~~
8 ~~funding of the loan.~~
9 ~~(2) Retain a copy of the certification.~~
10 ~~(3) Make the certification available to the Franchise Tax Board~~
11 ~~upon request.~~
12 ~~(e) The committee shall do all of the following:~~
13 ~~(1) Provide forms and instructions for applications for credit~~
14 ~~certification, as specified pursuant to the Farmworker Housing~~
15 ~~Assistance Program.~~
16 ~~(2) Accept applications and issue a certificate to the taxpayer~~
17 ~~that includes the credit amount to which the taxpayer is entitled for~~
18 ~~the taxable year.~~
19 ~~(3) Obtain the taxpayer's taxpayer identification number, and~~
20 ~~each shareholder's taxpayer identification number in the case of an~~
21 ~~S corporation, for tax administration purposes.~~
22 ~~(4) Provide an annual listing to the Franchise Tax Board, and~~
23 ~~in a form and manner agreed upon by the Franchise Tax Board and~~
24 ~~the committee, containing the names, taxpayer identification~~
25 ~~numbers pursuant to paragraph (3), qualified amounts, and total~~
26 ~~amount of credit certified to each taxpayer.~~
27 ~~(f) For the purposes of this section:~~
28 ~~(1) "Construct or rehabilitate" includes reconstruction, but~~
29 ~~does not include any costs related to acquisition or refinancing of~~
30 ~~property or structures thereon.~~
31 ~~(2) "Farmworker Housing Assistance Program" means~~
32 ~~Chapter 3.7 (commencing with Section 50199.50) of Part 1 of~~
33 ~~Division 31 of the Health and Safety Code.~~
34 ~~(3) "Eligible costs" means those expenditures certified by the~~
35 ~~committee to meet the requirements of Sections 17053.14 and~~
36 ~~23608.2.~~
37 ~~(4) "Qualified farmworker housing" means housing within~~
38 ~~the state that meets the requirements of the Farmworker Housing~~
39 ~~Assistance Program.~~

~~(g) (1) In the event that the committee determines that the certification provided under subdivision (e) was obtained by fraud or misrepresentation of the taxpayer, there shall be added to the “tax,” as defined in Section 23036 for the taxable year in which the disqualifying event occurs, the recapture amount computed under paragraph (2) and the interest amount computed under paragraph (3).~~

~~(2) For purposes of this subdivision, “recapture amount” means the entire amount of any credit previously allowed under this section.~~

~~(3) For purposes of this subdivision, “interest amount” means the amount of interest computed using the adjusted annual rate established in Section 19521 from the due date of the return for the taxable year in which the credit was claimed to the date of payment of the additional tax resulting from the application of this subdivision.~~

~~(h) (1) Except as provided in paragraph (2), if the bank or financial corporation sells the loan to another bank or financial corporation, the balance of the credit, if any, shall be transferred to the assignee or transferee of the loan, subject to the same conditions and limitations as set forth in this section.~~

~~(2) A bank or financial corporation may assign, sell, or otherwise transfer the loan to another person or entity and retain the right to claim the credit granted under this section if the bank or financial corporation also retains responsibility for servicing the loan.~~

~~(i) The annual amount of credit granted pursuant to this section and Sections 17053.14 and 23608.2 shall not exceed five hundred thousand dollars (\$500,000), provided that the aggregate amount of the credit granted pursuant to this section and Sections 17053.14 and 23608.2 for the 1998 calendar year and thereafter may exceed five hundred thousand dollars (\$500,000) per calendar year by an amount equal to any unallocated credits under this section and Sections 17053.14 and 23608.2 for the preceding calendar year or years.~~

SEC. 9. Section 23610.5 of the Revenue and Taxation Code is amended to read:

23610.5. (a) (1) There shall be allowed as a credit against the “tax” (as defined by Section 23036) a state low-income housing tax credit in an amount equal to the amount determined in

subdivision (c), computed in accordance with Section 42 of the Internal Revenue Code of 1986, except as otherwise provided in this section.

(2) “Taxpayer,” for purposes of this section, means the sole owner in the case of a C corporation, the partners in the case of a partnership, and the shareholders in the case of an S corporation.

(3) “Housing sponsor,” for purposes of this section, means the sole owner in the case of a C corporation, the partnership in the case of a partnership, and the S corporation in the case of an S corporation.

(b) (1) The amount of the credit allocated to any housing sponsor shall be authorized by the California Tax Credit Allocation Committee, or any successor thereof, based on a project’s need for the credit for economic feasibility in accordance with the requirements of this section.

(A) The low-income housing project shall be located in California and shall meet either of the following requirements:

(i) The project’s housing sponsor ~~has~~ *shall have* been allocated by the California Tax Credit Allocation Committee a credit for federal income tax purposes under Section 42 of the Internal Revenue Code.

(ii) It ~~qualifies~~ *shall qualify* for a credit under Section 42(h)(4)(B) of the Internal Revenue Code.

(B) The California Tax Credit Allocation Committee ~~shall~~ *may* not require fees for the credit under this section in addition to those fees required for applications for the tax credit pursuant to Section 42 of the Internal Revenue Code. The committee may require a fee if the application for the credit under this section is submitted in a calendar year after the year the application is submitted for the federal tax credit.

(2) (A) The California Tax Credit Allocation Committee shall certify to the housing sponsor the amount of tax credit under this section allocated to the housing sponsor for each credit period.

(B) In the case of a partnership or an S corporation, the housing sponsor shall provide a copy of the California Tax Credit Allocation Committee certification to the taxpayer.

(C) The taxpayer shall, upon request, provide a copy of the certification to the Franchise Tax Board.

(D) All elections made by the taxpayer pursuant to Section 42 of the Internal Revenue Code shall apply to this section.

(E) For buildings located in designated difficult development areas or qualified census tracts as defined in Section 42(d)(5)(C) of the Internal Revenue Code, credits may be allocated under this section in the amounts prescribed in subdivision (c), provided that the amount of credit allocated under Section 42 of the Internal Revenue Code is computed on 100 percent of the qualified basis of the building.

(c) Section 42(b) of the Internal Revenue Code shall be modified as follows:

(1) In the case of any qualified low-income building placed in service by the housing sponsor during 1987, the term “applicable percentage” means 9 percent for each of the first three years and 3 percent for the fourth year for new buildings (whether or not the building is federally subsidized) and for existing buildings.

(2) In the case of any qualified low-income building that receives an allocation after 1989 and is a new building not federally subsidized, the term “applicable percentage” means the following:

(A) For each of the first three years, the percentage prescribed by the Secretary of the Treasury for new buildings that are not federally subsidized for the taxable year, determined in accordance with the requirements of Section 42(b)(2) of the Internal Revenue Code, in lieu of the percentage prescribed in Section 42(b)(1)(A).

(B) For the fourth year, the difference between 30 percent and the sum of the applicable percentages for the first three years.

(3) In the case of any qualified low-income building that receives an allocation after 1989 and that is a new building that is federally subsidized or that is an existing building that is “at risk of conversion,” the term “applicable percentage” means the following:

(A) For each of the first three years, the percentage prescribed by the Secretary of the Treasury for new buildings that are federally subsidized for the taxable year.

(B) For the fourth year, the difference between 13 percent and the sum of the applicable percentages for the first three years.

(4) For purposes of this section, the term “at risk of conversion,” with respect to an existing building means a building that satisfies all of the following criteria:

1 (A) The building is presently owned by a housing sponsor other
2 than a qualified nonprofit organization.

3 (B) The building is a federally assisted building for which the
4 low-income use restrictions will terminate or the building is
5 eligible for prepayment under Subtitle 13 of the Emergency Low
6 Income Housing Assistance Act of 1987 or under Section 502(c)
7 of the Housing Act of 1949, anytime in the two calendar years after
8 the year of application to the California Tax Credit Allocation
9 Committee, and the purchaser has received preliminary approval
10 from the applicable federal agency for a maximum level of
11 incentives through a plan of action.

12 (C) The person acquiring the building enters into a regulatory
13 agreement that requires the building to be operated in accordance
14 with the requirements of this section for a period equal to the
15 greater of 55 years or the life of the building.

16 (D) The building satisfies the requirements of Section 42(e) of
17 the Internal Revenue Code regarding rehabilitation expenditures,
18 except that the provisions of Section 42(e)(3)(A)(ii)(I) ~~shall~~ do not
19 apply.

20 (d) The term “qualified low-income housing project” as
21 defined in Section 42(c)(2) of the Internal Revenue Code is
22 modified by adding the following requirements:

23 (1) The taxpayer shall be entitled to receive a cash distribution
24 from the operations of the project, after funding required reserves,
25 which, at the election of the taxpayer, ~~shall be~~ is equal to:

26 (A) An amount not to exceed 8 percent of the lesser of:

27 (i) The owner equity, ~~which~~ *that* shall include the amount of the
28 capital contributions actually paid to the housing sponsor and ~~shall~~
29 *may* not include any amounts until they are paid on an investor
30 note.

31 (ii) Twenty percent of the adjusted basis of the building as of
32 the close of the first taxable year of the credit period.

33 (B) The amount of the cash-flow from those units in the
34 building that are not low-income units. For purposes of computing
35 cash-flow under this subparagraph, operating costs shall be
36 allocated to the low-income units using the “floor space fraction,”
37 as defined in Section 42 of the Internal Revenue Code.

38 (C) Any amount allowed to be distributed under subparagraph
39 (A) that is not available for distribution during the first five years
40 of the compliance period may accumulate and be distributed at any

1 time during the first 15 years of the compliance period but not
2 thereafter.

3 (2) The limitation on return shall apply in the aggregate to the
4 partners if the housing sponsor is a partnership and in the aggregate
5 to the shareholders if the housing sponsor is an S corporation.

6 (3) The housing sponsor shall apply any cash available for
7 distribution in excess of the amount eligible to be distributed under
8 paragraph (1) to reduce the rent on rent-restricted units or to
9 increase the number of rent-restricted units subject to the tests of
10 Section 42(g)(1) of the Internal Revenue Code.

11 (e) The provisions of Section 42(f) of the Internal Revenue
12 Code shall be modified as follows:

13 (1) The term “credit period” as defined in Section 42(f)(1) of
14 the Internal Revenue Code is modified by substituting “four
15 taxable years” for “10 taxable years.”

16 (2) The special rule for the first taxable year of the credit period
17 under Section 42(f)(2) of the Internal Revenue Code ~~shall~~ *does* not
18 apply to the tax credit under this section.

19 (3) Section 42(f)(3) of the Internal Revenue Code is modified
20 to read:

21 If, as of the close of any taxable year in the compliance period,
22 after the first year of the credit period, the qualified basis of any
23 building exceeds the qualified basis of that building as of the close
24 of the first year of the credit period, the housing sponsor, to the
25 extent of its tax credit allocation, shall be eligible for a credit on
26 the excess in an amount equal to the applicable percentage
27 determined pursuant to subdivision (c) for the four-year period
28 beginning with the later of the ~~taxable income~~ years in which the
29 increase in qualified basis occurs.

30 (f) The provisions of Section 42(h) of the Internal Revenue
31 Code shall be modified as follows:

32 (1) Section 42(h)(2) of the Internal Revenue Code ~~shall not be~~
33 *is not* applicable and instead the following provisions shall be
34 applicable:

35 The total amount for the four-year credit period of the housing
36 credit dollars allocated in a calendar year to any building shall
37 reduce the aggregate housing credit dollar amount of the
38 California Tax Credit Allocation Committee for the calendar year
39 in which the allocation is made.

(2) Paragraphs (3), (4), (5), (6)(E)(i)(II), (6)(F), (6)(G), (6)(I), (7), and (8) of Section 42(h) of the Internal Revenue Code ~~shall not be~~ *are not* applicable.

(g) The aggregate housing credit dollar amount ~~that~~ *which* may be allocated annually by the California Tax Credit Allocation Committee pursuant to this section, Section 12206, and Section 17058 shall be an amount equal to the sum of all the following:

~~(1) Seventy, but not to exceed seventy~~ million dollars (\$70,000,000) for the 2001 calendar year, and, for the 2002 calendar year and each calendar year thereafter, seventy million dollars (\$70,000,000) increased by the percentage, if any, by which the Consumer Price Index for the preceding calendar year exceeds the Consumer Price Index for the 2001 calendar year. ~~For~~ *for* the purposes of this paragraph, the term “Consumer Price Index” means the last Consumer Price Index for all urban consumers published by the federal Department of ~~Labor~~.

~~(2) Labor~~:

(1) To be allocated for qualified low-income housing projects, including farmworker housing:

(A) Forty-five million dollars (\$45,000,000).

(B) The unused housing credit ceiling, if any, for the preceding calendar years.

~~(3)~~

(C) The amount of housing credit ceiling returned in the calendar year. For purposes of this paragraph subparagraph, the amount of housing credit dollar amount returned in the calendar year equals the housing credit dollar amount previously allocated to any project that does not become a qualified low-income housing project within the period required by this section or to any project with respect to which an allocation is canceled by mutual consent of the California Tax Credit Allocation Committee and the allocation recipient.

(2) To be specifically designated for the construction or rehabilitation of qualified farmworker housing, all of the following:

(A) Five hundred thousand dollars (\$500,000).

(B) The unused qualified farmworker housing credits, if any, for the preceding calendar year or years.

(C) The amount of qualified farmworker housing credit ceiling returned in the calendar year. For purposes of this subparagraph,

1 *the amount returned in the calendar year equals the housing credit*
2 *dollar amount previously allocated to any project that does not*
3 *become a qualified low-income farmworker housing project*
4 *within the period required by this section or to any project with*
5 *respect to which an allocation is canceled by mutual consent of the*
6 *California Tax Credit Allocation Committee and the allocation*
7 *recipient.*

8 *“Qualified farmworker housing” means housing located within*
9 *this state that satisfies the requirements of the Farmworker*
10 *Housing Assistance Program. The housing may be vacant or*
11 *occupied, and it need not be licensed pursuant to the Employee*
12 *Housing Act at the time of the initiation of construction or*
13 *rehabilitation.*

14 *The farmworker housing tax credit may not be allowed unless*
15 *the taxpayer constructs or rehabilitates the property subject to the*
16 *covenants, conditions, and restrictions imposed by this section and*
17 *pursuant to the Farmworker Housing Assistance Program, which*
18 *shall include, but not necessarily be limited to, a requirement that*
19 *the taxpayer obtain, for approval by the committee, a construction*
20 *cost audit and certification of eligible costs from a qualified*
21 *accountant; and, subsequent to the construction or rehabilitation*
22 *of the farmworker housing, owns or operates the farmworker*
23 *housing pursuant to the requirements of this section, or ensures the*
24 *ownership and operation of the farmworker housing pursuant to*
25 *the requirements of this section.*

26 (h) The term “compliance period” as defined in Section
27 42(i)(1) of the Internal Revenue Code is modified to mean, with
28 respect to any building, the period of 30 consecutive taxable years
29 beginning with the first taxable year of the credit period with
30 respect thereto.

31 (i) Section 42(j) of the Internal Revenue Code shall not be
32 applicable and the following shall be substituted in its place:

33 The requirements of this section shall be set forth in a regulatory
34 agreement between the California Tax Credit Allocation
35 Committee and the housing sponsor, and this agreement shall be
36 subordinated, when required, to any lien or encumbrance of any
37 banks or other institutional lenders to the project. The regulatory
38 agreement entered into pursuant to subdivision (f) of Section
39 50199.14 of the Health and Safety Code, shall apply, ~~provided that~~
40 *providing* the agreement includes all of the following provisions:

1 (1) A term not less than the compliance period.

2 (2) A requirement that the agreement be filed in the official
3 records of the county in which the qualified low-income housing
4 project is located.

5 (3) A provision stating which state and local agencies can
6 enforce the regulatory agreement in the event the housing sponsor
7 fails to satisfy any of the requirements of this section.

8 (4) A provision that the regulatory agreement shall be deemed
9 a contract enforceable by tenants as third-party beneficiaries
10 thereto, and that allows individuals, whether prospective, present,
11 or former occupants of the building, who meet the income
12 limitation applicable to the building the right to enforce the
13 regulatory agreement in any state court.

14 (5) A provision incorporating the requirements of Section 42
15 of the Internal Revenue Code as modified by this section.

16 (6) A requirement that the housing sponsor notify the
17 California Tax Credit Allocation Committee or its designee if there
18 is a determination by the Internal Revenue Service that the project
19 is not in compliance with Section 42(g) of the Internal Revenue
20 Code.

21 (7) A requirement that the housing sponsor, as security for the
22 performance of the housing sponsor's obligations under the
23 regulatory agreement, assign the housing sponsor's interest in
24 rents that it receives from the project, provided that until there is
25 a default under the regulatory agreement, the housing sponsor is
26 entitled to collect and retain the rents.

27 (8) A provision that the remedies available in the event of a
28 default under the regulatory agreement that is not cured within a
29 reasonable cure period include, but are not limited to, allowing any
30 of the parties designated to enforce the regulatory agreement to
31 collect all rents with respect to the project; taking possession of the
32 project and operating the project in accordance with the regulatory
33 agreement until the enforcer determines the housing sponsor is in
34 a position to operate the project in accordance with the regulatory
35 agreement; applying to any court for specific performance;
36 securing the appointment of a receiver to operate the project; or
37 any other relief as may be appropriate.

38 (j) (1) The committee shall allocate the housing credit on a
39 regular basis consisting of two or more periods in each calendar
40 year during which applications may be filed and considered. The



committee shall establish application filing deadlines, the maximum percentage of federal and state low-income housing tax credit ceiling that may be allocated by the committee in that period, and the approximate date on which allocations shall be made. If the enactment of federal or state law, the adoption of rules or regulations, or other similar events prevent the use of two allocation periods, the committee may reduce the number of periods and adjust the filing deadlines, maximum percentage of credit allocated, and *the* allocation dates.

(2) The committee shall adopt a qualified allocation plan, as provided in Section 42(m)(1) of the Internal Revenue Code. In adopting this plan, the committee shall comply with the provisions of Sections 42(m)(1)(B) and 42(m)(1)(C) of the Internal Revenue Code.

(3) Notwithstanding Section 42(m) of the Internal Revenue Code, the California Tax Credit Allocation Committee shall allocate housing credits in accordance with the qualified allocation plan and regulations, which shall include the following provisions:

(A) All housing sponsors, as defined by paragraph (3) of subdivision (a), shall demonstrate at the time the application is filed with the committee that the project meets the following threshold requirements:

(i) The housing sponsor shall demonstrate ~~that~~ there is a need for low-income housing in the community or region for which it is proposed.

(ii) The project's proposed financing, including tax credit proceeds, shall be sufficient to complete the project and shall be adequate to operate the project for the extended use period.

(iii) The project shall have enforceable financing commitments, either construction or permanent financing, for at least 50 percent of the total estimated financing of the project.

(iv) The housing sponsor shall have and maintain control of the site for the project.

(v) The housing sponsor shall demonstrate that the project complies with all applicable local land use and zoning ordinances.

(vi) The housing sponsor shall demonstrate that the project development team has the experience and the financial capacity to ensure project completion and operation for the extended use period.

(vii) The housing sponsor shall demonstrate the amount of tax credit that is necessary for the financial feasibility of the project and its viability as a qualified low-income housing project throughout the extended use period, taking into account operating expenses, a supportable debt service, reserves, funds set aside for rental subsidies, and required equity, and a development fee that does not exceed a specified percentage of the eligible basis of the project prior to inclusion of the development fee in the eligible basis, as determined by the committee.

(B) The committee shall give a preference to those projects satisfying all of the threshold requirements of subparagraph (A) if both of the following apply:

(i) The project serves the lowest income tenants at rents affordable to those tenants.

(ii) The project is obligated to serve qualified tenants for the longest period.

(C) In addition to the provisions of subparagraphs (A) and (B), the committee shall use the following criteria in allocating housing credits:

(i) Projects serving large families in which a substantial number, as defined by the committee, of all residential units ~~are~~ *is comprised of* low-income units with three and more bedrooms.

(ii) Projects providing single-room occupancy units serving very low income tenants.

(iii) Existing projects that are “at risk of conversion,” as defined by paragraph (4) of subdivision (c).

(iv) Projects for which a public agency provides direct or indirect long-term financial support for at least 15 percent of the total project development costs or projects for which the owner’s equity constitutes at least 30 percent of the total project development costs.

(v) Projects that provide tenant amenities not generally available to residents of low-income housing projects.

(4) For purposes of allocating credits pursuant to this section, the committee ~~shall~~ *may* not give preference to any project by virtue of the date of submission of its application except to break a tie when two or more of the projects have an equal rating.

(5) Not less than 20 percent of the low-income housing tax credits available annually under this section, Section 12206, and Section 17058 shall be set aside for allocation to rural areas as

defined in Section 50199.21 of the Health and Safety Code. Any amount of credit set aside for rural areas remaining on or after October 31 of any calendar year shall be available for allocation to any eligible project. No amount of credit set aside for rural areas shall be considered available for any eligible project so long as there are eligible rural applications pending on October 31.

(k) Section 42(l) of the Internal Revenue Code shall be modified as follows:

The term “secretary” shall be replaced by the term “California Franchise Tax Board.”

(l) In the case where the state credit allowed under this section exceeds the “tax,” the excess may be carried over to reduce the “tax” in the following year, and succeeding years if necessary, until the credit has been exhausted.

(m) A project that received an allocation of a 1989 federal housing credit dollar amount shall be eligible to receive an allocation of a 1990 state housing credit dollar amount, subject to all of the following conditions:

(1) The project was not placed in service prior to 1990.

(2) To the extent the amendments made to this section by the Statutes of 1990 conflict with any provisions existing in this section prior to those amendments, the prior provisions of law shall prevail.

(3) Notwithstanding paragraph (2), a project applying for an allocation under this subdivision shall be subject to the requirements of paragraph (3) of subdivision (j).

(n) The credit period with respect to an allocation of credit in 1989 by the California Tax Credit Allocation Committee of which any amount is attributable to unallocated credit from 1987 or 1988 ~~shall~~ *does* not begin until after December 31, 1989.

(o) The provisions of Section 11407(a) of Public Law 101-508, relating to the effective date of the extension of the low-income housing credit, shall apply to calendar years after 1989.

(p) The provisions of Section 11407(c) of Public Law 101-508, relating to election to accelerate credit, ~~shall~~ *does* not apply.

(q) (1) A corporation may elect to assign any portion of any credit allowed under this section to one or more affiliated corporations for each taxable year in which the credit is allowed. For purposes of this subdivision, “affiliated corporation” has the meaning provided in subdivision (b) of Section 25110, as that

1 section was amended by Chapter 881 of the Statutes of 1993, as of
2 the last day of the taxable year in which the credit is allowed,
3 except that “100 percent” is substituted for “more than 50
4 percent” wherever it appears in the section, as that section was
5 amended by Chapter 881 of the Statutes of 1993, and “voting
6 common stock” is substituted for “voting stock” wherever it
7 appears in the section, as that section was amended by Chapter 881
8 of the Statutes of 1993.

9 (2) The election provided in paragraph (1):

10 (A) May be based on any method selected by the corporation
11 that originally receives the credit.

12 (B) Shall be irrevocable for the taxable year the credit is
13 allowed, once made.

14 (C) May be changed for any subsequent taxable year if the
15 election to make the assignment is expressly shown on each of the
16 returns of the affiliated corporations that assign and receive the
17 credits.

18 (r) Any unused credit may continue to be carried forward, as
19 provided in subdivision (k), until the credit has been exhausted.

20 This section shall remain in effect on or after December 1, 1990,
21 for as long as Section 42 of the Internal Revenue Code, ~~relating~~
22 *pertaining* to low-income housing credits, remains in effect.

23 (s) The amendments to this section made by the act adding this
24 subdivision shall apply only to taxable years beginning on or after
25 January 1, 1994, except that paragraph (1) of subdivision (q), as
26 amended, shall apply to taxable years beginning on or after
27 January 1, 1993.

28 ~~is amended to read:~~

29 ~~50199.50. For the purposes of this chapter:~~

30 (a) ~~“Agricultural worker” or “farmworker” shall have the~~
31 ~~same meaning as specified in subdivision (b) of Section 1140.4 of~~
32 ~~the Labor Code.~~

33 (b) ~~“Compliance period” means, with respect to any~~
34 ~~farmworker housing, the period of 10 consecutive taxable or~~
35 ~~income years, beginning with the taxable or income year in which~~
36 ~~the credit is allowable.~~

37 (c) ~~“Eligible costs” means the total finance costs, construction~~
38 ~~costs, excavation costs, installation costs, and permit costs paid or~~
39 ~~incurred to construct or rehabilitate farmworker housing.~~
40 ~~“Eligible costs” include, but are not limited to, improvements to~~

1 ~~ensure compliance with laws governing access for persons with~~
2 ~~disabilities and costs related to reducing utility expenses.~~
3 ~~Noneligible costs include land and those costs financed by grants~~
4 ~~and below market financing.~~

5 ~~(d) “Farmworker housing” means housing for agricultural~~
6 ~~workers and may include, but need not be limited to,~~
7 ~~conventionally constructed units and manufactured housing.~~

8 ~~(e) “Farmworker housing tax credits” means the tax credits~~
9 ~~authorized by Sections 17053.14, 23608.2, and 23608.3 of the~~
10 ~~Revenue and Taxation Code.~~

11 ~~(f) “Household” has the same meaning as defined in Section~~
12 ~~7602 of Title 25 of the California Code of Regulations.~~

13 ~~(g) “Committee” means the California Tax Credit Allocation~~
14 ~~Committee as defined in Section 50199.7.~~

15 ~~(h) “Owner” and “recipient” mean any person or entity~~
16 ~~deemed eligible for tax credits by the committee pursuant to this~~
17 ~~chapter regardless of actual ownership of the farmworker housing.~~

18 ~~SEC. 2. Section 50199.54 of the Health and Safety Code is~~
19 ~~amended to read:~~

20 ~~50199.54. (a) If the person who receives a credit pursuant to~~
21 ~~Section 17053.14 or 23608.2 of the Revenue and Taxation Code~~
22 ~~demonstrates, to the committee’s satisfaction, that there is no~~
23 ~~further need for farmworker housing or that it is no longer~~
24 ~~economically feasible to operate the farmworker housing, the~~
25 ~~person shall pay to the Franchise Tax Board a pro rata portion of~~
26 ~~the credit previously allowed equal to the amount of any tax credit~~
27 ~~previously allowed, multiplied by the ratio of the number of years~~
28 ~~not elapsed in the compliance period divided by 10.~~

29 ~~(b) If the farmworker housing is damaged or destroyed by a~~
30 ~~casualty not caused by the owner or operator, the compliance~~
31 ~~period has not expired, and the owner or operator commences~~
32 ~~reasonable action to repair or replace the farmworker housing, the~~
33 ~~taxpayer may continue to claim the credit as if no destruction had~~
34 ~~taken place.~~

35 ~~SEC. 3. Section 17053.14 of the Revenue and Taxation Code~~
36 ~~is amended to read:~~

37 ~~17053.14. (a) For taxable years beginning on or after January~~
38 ~~1, 1997, there shall be allowed as a credit against the “net tax,” as~~
39 ~~defined in Section 17039, an amount, subject to Section 42(h)(1)~~
40 ~~of the Internal Revenue Code, that is otherwise equal to the lesser~~

1 of 50 percent of the eligible costs, as determined under subdivision
2 (b), or the amount allocated under paragraph (2) of subdivision (c).

3 (b) (1) For purposes of this section, the “eligible costs” shall
4 be equal to the total finance costs, construction costs, excavation
5 costs, installation costs, and permit costs paid or incurred to
6 construct or rehabilitate farmworker housing. “Eligible costs”
7 include, but are not limited to, improvements to ensure compliance
8 with laws governing access for persons with disabilities and costs
9 related to reducing utility expenses. Noneligible costs include land
10 and those costs financed by grants and below-market financing.

11 (2) For purposes of paragraph (1), construction or
12 rehabilitation of the farmworker housing shall have commenced
13 on or after January 1, 1997.

14 (3) Notwithstanding any other provision of this part, eligible
15 costs shall not include any costs paid or incurred prior to January
16 1, 1997.

17 (c) Notwithstanding any other provision of this part, no credit
18 shall be allowed under this section unless the taxpayer first obtains
19 a certification from the committee that the amounts described in
20 subdivision (b) qualify for the credit under this section and the total
21 amount of the credit allocated to the taxpayer pursuant to the
22 Farmworker Housing Assistance Program.

23 (d) The taxpayer shall do all of the following:

24 (1) Apply to the committee for the credit certification.

25 (2) Retain a copy of the certification.

26 (3) Make the certification available to the Franchise Tax Board
27 upon request.

28 (e) The committee shall do all of the following:

29 (1) Provide forms and instructions for applications for credit
30 certification, as specified pursuant to the Farmworker Housing
31 Assistance Program.

32 (2) Accept applications and issue a certificate to the taxpayer
33 that includes a certification as to the eligible costs described in
34 subdivision (b) that qualify for the credit and the total amount of
35 the credit to which the taxpayer is entitled for the taxable year.
36 Credit in excess of the amount necessary to make the project
37 feasible shall not be allocated. Credits shall be allocated through
38 a minimum of one competitive funding round per year.

1 ~~(3) Obtain the taxpayer's taxpayer identification number, and~~
2 ~~each partner's taxpayer identification number in the case of a~~
3 ~~partnership, for tax administration purposes.~~

4 ~~(4) Provide an annual listing to the Franchise Tax Board, in the~~
5 ~~form and manner agreed upon by the Franchise Tax Board and the~~
6 ~~committee, containing the names, taxpayer identification numbers~~
7 ~~pursuant to paragraph (3), eligible costs, and total amount of credit~~
8 ~~certified to each taxpayer.~~

9 ~~(f) For purposes of this section:~~

10 ~~(1) "Compliance period" means, with respect to any~~
11 ~~farmworker housing, the period of 10 consecutive taxable years,~~
12 ~~beginning with the taxable year in which the credit is allowable.~~

13 ~~(2) "Construct or rehabilitate" includes reconstruction, but~~
14 ~~does not include any costs related to acquisition or refinancing of~~
15 ~~property or structures thereon.~~

16 ~~(3) "Farmworker Housing Assistance Program" means~~
17 ~~Chapter 3.7 (commencing with Section 50199.50) of Part 1 of~~
18 ~~Division 31 of the Health and Safety Code.~~

19 ~~(4) "Qualified farmworker housing" means housing located~~
20 ~~within this state that satisfies the requirements of the Farmworker~~
21 ~~Housing Assistance Program. The housing may be vacant or~~
22 ~~occupied.~~

23 ~~(5) "Committee" means the California Tax Credit Allocation~~
24 ~~Committee as defined in Section 50199.7 of the Health and Safety~~
25 ~~Code.~~

26 ~~(6) "Qualified accountant" means an accountant licensed or~~
27 ~~certified in this state who is neither an employee of the taxpayer~~
28 ~~nor related to the taxpayer, within the meaning of Section 267 of~~
29 ~~the Internal Revenue Code.~~

30 ~~(g) No deduction or other credit shall be allowed under this part~~
31 ~~or Part 11 (commencing with Section 23001) to the extent of any~~
32 ~~eligible costs, as defined in subdivision (b), that are taken into~~
33 ~~account in computing the credit allowed under this section.~~

34 ~~(h) The farmworker housing tax credit shall not be allowed~~
35 ~~unless the taxpayer:~~

36 ~~(1) Constructs or rehabilitates the property subject to the~~
37 ~~covenants, conditions, and restrictions imposed by this section and~~
38 ~~pursuant to the Farmworker Housing Assistance Program, which~~
39 ~~shall include, but not necessarily be limited to, a requirement that~~
40 ~~the taxpayer obtain, for approval by the committee, a construction~~

~~1 cost audit and certification of eligible costs from a qualified
2 accountant.~~

~~3 (2) Subsequent to construction or rehabilitation of the
4 farmworker housing, owns or operates the farmworker housing
5 pursuant to the requirements of this section, or ensures the
6 ownership and operation of the farmworker housing pursuant to
7 the requirements of this section.~~

~~8 (i) The requirements of this section shall be set forth in a written
9 agreement between the committee and the taxpayer. The
10 agreement shall include, but not necessarily be limited to, the
11 requirements set forth in the Farmworker Housing Assistance
12 Program.~~

~~13 (j) In the case where the credit allowed by this section exceeds
14 the "net tax," the excess may be carried over to reduce the "net
15 tax" in the following year, and succeeding years if necessary, until
16 the credit has been exhausted.~~

~~17 (k) (1) In the case of any disqualifying event, as defined in
18 paragraph (2), there shall be added to the "net tax," as defined in
19 Section 17039, for the taxable year in which the disqualifying
20 event occurs, the recapture amount computed under paragraph (3)
21 and the interest amount computed under paragraph (4).~~

~~22 (2) For purposes of this subdivision, "disqualifying event"
23 shall mean:~~

~~24 (A) The committee determines that the certification provided
25 under subdivision (c) was obtained by fraud or misrepresentation.~~

~~26 (B) The taxpayer fails to comply with the requirements of the
27 Farmworker Housing Assistance Program, or any other
28 requirement imposed under this section.~~

~~29 (3) For purposes of this subdivision, "recapture amount"
30 means:~~

~~31 (A) In the case of any disqualifying event described in
32 subparagraph (A) of paragraph (2), the entire amount of any credit
33 previously allowed under this section.~~

~~34 (B) In the case of any disqualifying event described in
35 subparagraph (B) of paragraph (2), an amount determined by
36 multiplying the entire amount of the credit previously allowed
37 under this section by a fraction, the numerator of which is the
38 number of years remaining in the compliance period and the
39 denominator of which is 10.~~

~~40 (4) For purposes of this subdivision, "interest amount" means:~~

1 ~~(A) In the case of any disqualifying event described in~~
2 ~~subparagraph (A) of paragraph (2), the amount of interest~~
3 ~~computed using the adjusted annual rate established in Section~~
4 ~~19521 from the due date of the return for each taxable year in~~
5 ~~which the credit was claimed to the date of the payment of the~~
6 ~~additional tax resulting from the application of this subdivision.~~

7 ~~(B) In the case of any disqualifying event described in~~
8 ~~subparagraph (B) of paragraph (2), zero.~~

9 ~~(I) The annual amount of credit granted pursuant to this section~~
10 ~~and Sections 23608.2 and 23608.3 shall not exceed five hundred~~
11 ~~thousand dollars (\$500,000), provided that the aggregate amount~~
12 ~~of the credit granted pursuant to this section and Sections 23608.2~~
13 ~~and 23608.3 for the 1998 calendar year and thereafter may exceed~~
14 ~~five hundred thousand dollars (\$500,000) per calendar year by an~~
15 ~~amount equal to any unallocated credits under this section and~~
16 ~~Sections 23608.2 and 23608.3 for the preceding calendar year or~~
17 ~~years.~~

18 ~~SEC. 4. Section 23608.2 of the Revenue and Taxation Code~~
19 ~~is amended to read:~~

20 ~~23608.2. (a) For taxable years beginning on or after January~~
21 ~~1, 1997, there shall be allowed as a credit against the "tax," as~~
22 ~~defined by Section 23036, an amount, subject to Section 42(h)(1)~~
23 ~~of the Internal Revenue Code, that is otherwise equal to the lesser~~
24 ~~of 50 percent of the eligible costs, as determined under subdivision~~
25 ~~(b), or the amount allocated under paragraph (2) of subdivision (e).~~

26 ~~(b) (1) For purposes of this section, the "eligible costs" shall~~
27 ~~be equal to the total finance costs, construction costs, excavation~~
28 ~~costs, installation costs, and permit costs paid or incurred to~~
29 ~~construct or rehabilitate farmworker housing. "Eligible costs"~~
30 ~~include, but are not limited to, improvements to ensure compliance~~
31 ~~with laws governing access for persons with disabilities and costs~~
32 ~~related to reducing utility expenses. Noneligible costs include land~~
33 ~~and those costs financed by grants and below-market financing.~~

34 ~~(2) For purposes of paragraph (1), construction or~~
35 ~~rehabilitation of the farmworker housing shall have commenced~~
36 ~~on or after January 1, 1997.~~

37 ~~(3) Notwithstanding any provision of this part, eligible costs~~
38 ~~shall not include any costs paid or incurred prior to January 1,~~
39 ~~1997.~~

~~(c) Notwithstanding any other provision of this part, no credit shall be allowed under this section unless the taxpayer first obtains a certification from the committee that the amounts described in subdivision (b) qualify for the credit under this section and the total amount of the credit allocated to the taxpayer pursuant to the Farmworker Housing Assistance Program.~~

~~(d) The taxpayer shall do all of the following:~~

~~(1) Apply to the committee for credit certification.~~

~~(2) Retain a copy of the certification.~~

~~(3) Make the certification available to the Franchise Tax Board upon request.~~

~~(e) The committee shall do all of the following:~~

~~(1) Provide forms and instructions for applications for credit certification, as specified pursuant to the Farmworker Housing Assistance Program.~~

~~(2) Accept applications and issue a certificate to the taxpayer that includes a certification as to the eligible costs described in subdivision (b) that qualify for the credit and the total amount of the credit to which the taxpayer is entitled for the taxable year. Credit in excess of the amount necessary to make the project feasible shall not be allocated. Credits shall be allocated through a minimum of one competitive funding round per year.~~

~~(3) Obtain the taxpayer's taxpayer identification number, or each shareholder's taxpayer identification number in the case of an S corporation, for tax administration purposes.~~

~~(4) Provide an annual listing to the Franchise Tax Board, in the form and manner agreed upon by the Franchise Tax Board and the committee, containing the names, taxpayer identification numbers pursuant to paragraph (3), eligible costs, and total amount of credit certified to each taxpayer.~~

~~(f) For purposes of this section:~~

~~(1) "Compliance period" means, with respect to any farmworker housing, the period of 10 consecutive taxable years, beginning with the taxable year in which the credit is allowable.~~

~~(2) "Construct or rehabilitate" includes reconstruction, but does not include any costs related to acquisition or refinancing of property or structures thereon.~~

~~(3) "Farmworker Housing Assistance Program" means Chapter 3.7 (commencing with Section 50199.50) of Part 1 of Division 31 of the Health and Safety Code.~~

1 ~~(4) “Qualified farmworker housing” means housing located~~
2 ~~within this state that satisfies the requirements of the Farmworker~~
3 ~~Housing Assistance Program. The housing may be vacant or~~
4 ~~occupied, and it need not be licensed pursuant to the Employee~~
5 ~~Housing Act at the time of the initiation of construction or~~
6 ~~rehabilitation.~~

7 ~~(5) “Committee” means the California Tax Credit Allocation~~
8 ~~Committee as defined in Section 50199.7 of the Health and Safety~~
9 ~~Code.~~

10 ~~(6) “Qualified accountant” means an accountant licensed or~~
11 ~~certified in this state who is neither an employee of the taxpayer,~~
12 ~~nor related to the taxpayer within the meaning of Section 267 of~~
13 ~~the Internal Revenue Code.~~

14 ~~(g) No deduction or other credit shall be allowed under this part~~
15 ~~or Part 10 (commencing with Section 17001) to the extent of any~~
16 ~~eligible costs, as defined in subdivision (b), that are taken into~~
17 ~~account in computing the credit allowed under this section.~~

18 ~~(h) The farmworker housing tax credit shall not be allowed~~
19 ~~unless the taxpayer:~~

20 ~~(1) Constructs or rehabilitates the property subject to the~~
21 ~~covenants, conditions, and restrictions imposed by this section and~~
22 ~~pursuant to the Farmworker Housing Assistance Program, which~~
23 ~~shall include, but not necessarily be limited to, a requirement that~~
24 ~~the taxpayer obtain, for approval by the committee, a construction~~
25 ~~cost audit and certification of eligible costs from a qualified~~
26 ~~accountant.~~

27 ~~(2) Subsequent to construction or rehabilitation of the~~
28 ~~farmworker housing, owns or operates the farmworker housing~~
29 ~~pursuant to the requirements of this section, or ensures the~~
30 ~~ownership and operation of the farmworker housing pursuant to~~
31 ~~the requirements of this section.~~

32 ~~(i) The requirements of this section shall be set forth in a written~~
33 ~~agreement between the committee and the taxpayer. The~~
34 ~~agreement shall include, but not necessarily be limited to, the~~
35 ~~requirements set forth in the Farmworker Housing Assistance~~
36 ~~Program.~~

37 ~~(j) In the case where the credit allowed by this section exceeds~~
38 ~~the “tax,” the excess may be carried over to reduce the “tax” in~~
39 ~~the following year, and succeeding years if necessary, until the~~
40 ~~credit has been exhausted.~~

~~(k) (1) In the case of any disqualifying event, as defined in paragraph (2), there shall be added to the “tax,” as defined in Section 23036, for the taxable year in which the disqualifying event occurs, the recapture amount computed under paragraph (3) and the interest amount computed under paragraph (4).~~

~~(2) For purposes of this subdivision, “disqualifying event” shall mean:~~

~~(A) The committee determines that the certification provided under subdivision (e) was obtained by fraud or misrepresentation.~~

~~(B) The taxpayer fails to comply with the requirements of the Farmworker Housing Assistance Program, or any other requirement imposed under this section.~~

~~(3) For purposes of this subdivision, “recapture amount” means:~~

~~(A) In the case of any disqualifying event described in subparagraph (A) of paragraph (2), the entire amount of any credit previously allowed under this section.~~

~~(B) In the case of any disqualifying event described in subparagraph (B) of paragraph (2), an amount determined by multiplying the entire amount of the credit previously allowed under this section by a fraction, the numerator of which is the number of years remaining in the compliance period and the denominator of which is 10.~~

~~(4) For purposes of this subdivision, “interest amount” means:~~

~~(A) In the case of any disqualifying event described in subparagraph (A) of paragraph (2), the amount of interest computed using the adjusted annual rate established in Section 19521 from the due date of the return for each taxable year in which the credit was claimed to the date of payment of the additional tax resulting from the application of this subdivision.~~

~~(B) In the case of any disqualifying event described in subparagraph (B) of paragraph (2), zero.~~

~~(l) The annual amount of credit granted pursuant to this section and Sections 17053.14 and 23608.3 shall not exceed five hundred thousand dollars (\$500,000), provided that the aggregate amount of the credit granted pursuant to this section and Sections 17053.14 and 23608.3 for the calendar year 1998 and thereafter may exceed five hundred thousand dollars (\$500,000) per calendar year by an amount equal to any unallocated credits under~~

- 1 ~~this section and Sections 17053.14 and 23608.3 for the preceding~~
- 2 ~~calendar year or years.~~

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